

***Bull Run Administrative Rules***  
***(to be filed for discussion by City Council on December 1, 2021)***

**Project Impact Assessment and Mitigation Summary Requirements  
for City-owned Lands in the Bull Run Closure Area**

**I. Purpose**

- A. These rules implement Portland City Code (PCC) 21.36.050 Sections G.1 and G.2, which require: (i) a methodology to assess environmental impacts of capital and non-routine projects on City-owned lands in the Bull Run Closure Area that have significant impacts on the watershed; and (ii) a methodology to define and summarize mitigation for those projects. The rules seek to avoid, then minimize and mitigate, impacts on environmental and cultural resources to the greatest extent practicable, as required in Portland’s City Charter, Section 11-107. See **Exhibit A** for a process flowchart.
- B. Because uses of City-owned lands in the Bull Run Closure Area are restricted by Portland’s City Charter and City Code, the activities regulated by these rules will be: (i) Water Bureau projects to operate, maintain and protect the water supply and water system; and (ii) Bureau of Hydropower projects to operate and maintain the hydroelectric system.

**II. Scope**

- A. These rules apply to City-owned lands in the Bull Run Closure Area. These rules do not apply to federally-owned lands in the Bull Run Closure Area or to City-owned lands outside the Bull Run Closure Area.
- B. City projects on federal lands are governed by federal rules and requirements, including the National Environmental Policy Act (NEPA).

**III. Definitions**

- A. **At-risk species.** Fish, wildlife (mammals, birds, amphibians and reptiles) and plant species in one of the following categories:
  - 1. Federally listed as endangered or threatened.
  - 2. Federally listed as proposed, candidate or species of concern.
  - 3. State listed as endangered or threatened.
  - 4. State listed as sensitive-critical or sensitive.
  - 5. Oregon Biodiversity Information Center Rank or Heritage List 1, 2, and 3.

- B. **Infrastructure project.** Construction, maintenance, repair or replacement of facilities necessary for operation of the water system and electric power generation and transmission, including maintenance of existing dams, roads, culverts, pipelines, powerlines, trestles and bridges.
- C. **Fish and wildlife.** At-risk fish and wildlife (mammals, birds, amphibians and reptiles) and related habitat located on City-owned lands in the Bull Run Closure Area.
- D. **Impacts.** Adverse effects on water quantity, water quality, cultural resources or the natural environment, including soils, vegetation, and fish and wildlife and related habitat on City-owned lands in the Bull Run Closure Area.
- E. **Land or vegetation management project.** Managing the forest or the natural landscape (e.g., stabilizing hillslopes) in accordance with Portland City Charter 11-107 and Public Law 95-200, clearing forest land to build infrastructure, or clearing forest adjacent to structures and powerlines to reduce the risk of fire starts and fire spread.
- F. **Mitigation measures.** Actions or modifications to avoid an impact altogether, to minimize the extent of the impact, to rectify the impact by repairing and restoring the site to a pre-impact condition, or in limited circumstances to restore previously-disturbed resources elsewhere.
- G. **Previously developed, paved or otherwise non-forested areas.** Areas that have been, and will continue to be, disturbed by human activity over the life of the water system and are no longer in an undisturbed natural forest condition, including but not limited to Dam 1, Dam 2, Reservoir 1, Reservoir 2, Headworks, Bear Creek houses, road corridors, powerline corridors and conduit corridors. Previously developed areas include water supply operation areas that have been cleared, graveled, graded, excavated or built upon.
- H. **Reasonable range of alternatives.** Alternative project designs or alternative strategies to avoid or minimize the environmental and cultural resource impacts identified in a Project Impact Assessment. If an alternatives analysis is required for a project, the range of alternatives considered must include at least: (i) not proceeding with the project (no action alternative); and (ii) at least one (1) project design alternative with a lesser level of impact.
- I. **Significant impacts on the watershed.** The following criteria are to be used to assess the potential for significant impacts on the watershed, which are limited to impacts occurring on City-owned lands in the Bull Run Closure Area:

1. Magnitude. The amount of new ground disturbance or vegetation removal is 0.5 acres or larger.
2. Location. The effects are outside previously developed, paved or otherwise non-forested areas, or the effects are within the stream channel up to the ordinary high-water mark of the Bull Run River or its tributaries.
3. Threatened and endangered species. The effects may include impacts on federally-listed threatened or endangered species and their habitats that cannot be avoided or minimized by following existing regulatory permits and requirements, standard operating procedures or other relevant federal guidelines.
4. Unusual circumstances. The effects are not anticipated in existing regulatory compliance plans and are not easily addressed with anticipated permits or existing standard operating procedures.
5. Cumulative. The effects are not significant within the planned project, but may be significant when considered in addition to past projects or future planned projects.
6. Irreversible. The effects cannot be reversed with post-project restoration and revegetation.

#### IV. **Project Impact Assessment**

A. **Projects Requiring Assessment**. Projects in each of the following categories may have the potential to result in significant impacts on the watershed:

1. Infrastructure projects, ancillary structures or construction staging located outside previously developed, paved or otherwise non-forested areas.
2. Construction of new roads outside existing road corridors, or reconstruction of existing road segments, if the total area of new ground disturbance or vegetation removal is 0.5 acres or larger.
3. Projects affecting the stream channel up to the ordinary high-water mark of the Bull Run River and its tributaries, including flow, water quality and instream habitat (unless the project's impacts are addressed in the Bull Run Water Supply Habitat Conservation Plan (HCP) and thereby excluded in Subsection C).
4. Land or vegetation management projects not excluded in Subsection C.
5. Other projects not excluded in Subsection C.

- B. The Water Bureau must evaluate these projects in a Project Impact Assessment (using a template substantially in accordance with **Exhibit B**), determine if the project has the potential to have significant impacts on the watershed, and prepare a map of the project location. The Water Bureau must post the Project Impact Assessment online and notify stakeholders, in accordance with PCC 21.36.050 F.2.
- C. **Exclusions.** The following types of projects are not expected to have significant impacts on the watershed, and a Project Impact Assessment is not required. The general direction to avoid, then minimize and mitigate, impacts still applies, but is accomplished by implementing applicable regulatory management plans, best management practices as documented in standard operating procedures, and by obtaining and complying with applicable permits.
1. Repair or reconstruction of buildings and facilities located wholly within previously developed, paved or otherwise non-forested areas.
  2. Repair or reconstruction of road segments within existing road corridors if the total area of new ground disturbance or vegetation removal is less than 0.5 acres (including removal of hazard trees according to Occupational Safety and Health Administration requirements).
  3. Repair or replacement of road culverts consistent with PCC 21.36.050 Section J requirements for aquatic organism passage.
  4. Routine projects listed on the quarterly Bull Run Project List prepared to comply with PCC 21.36.050 Section E, including road and powerline maintenance and hazard tree removal.
  5. Vegetation management within established powerline corridors to prevent fire and to reduce risk to powerline infrastructure in accordance with agreements with Portland General Electric or Federal Energy Regulatory Commission (FERC) license requirements.
  6. Vegetation management around buildings and facilities for fire hazard reduction to comply with county land use requirements or state and federal fire safety guidelines and requirements.
  7. Safety-related repairs of dams and hydropower facilities resulting from orders from the FERC Regional Engineer pursuant to CFR Title 18 Section 12.4.
  8. Vegetation management to meet state and federal dam safety requirements and related inspection requirements.
  9. Treatment of invasive plant species according to the Water Bureau's Integrated Vegetation Management Plan.

10. Revegetation of previously-disturbed sites, consistent with PCC 21.36.050 Section I.
  11. Implementation of conservation measures contained in the Bull Run Water Supply HCP.
  12. Maintenance and repair of existing structures to meet the requirements of the Historic Properties Management Plan (HPMP).
- D. Emergency projects will proceed in accordance with PCC 21.36.050 Section M.
- E. **Surveys for At-Risk Species.** The Water Bureau will periodically review the most recent information available to identify at-risk species that might be present on City-owned lands in the Bull Run Closure Area. Project Impact Assessments will evaluate the potential need for surveys to identify the presence of relevant species at or near the project site, as well as options to avoid impacts even if the presence of at-risk species is not known. When possible, projects will be designed and implemented to avoid the potential for impacts and surveys will therefore not be necessary. When the presence of at-risk species is not known and avoidance is not possible, the Project Impact Assessment will evaluate the feasibility of conducting surveys. The feasibility assessment will evaluate the availability of suitable survey protocols, the availability of staff or contractors qualified to implement the survey protocol, the practicality of survey timing and duration, the estimated costs of the survey effort, the potential for detrimental effects to at-risk species that could result from surveys including disturbance and predation, and the probable value of the resulting data. If species presence is likely, adverse effects are likely, and surveys are feasible and necessary to avoid impacts, the Water Bureau must conduct surveys to identify the presence of at-risk species. Surveys for federally-listed endangered or threatened species will occur as required by the federal agencies with jurisdiction. The purpose of surveys is to enable design modifications or other mitigation to avoid, minimize and mitigate potential effects to the at-risk species.
- F. **Riparian Reserves.** Location of a project in a riparian reserve does not by itself require preparation of a Project Impact Assessment or Mitigation Summary, but does require a riparian reserve protection plan. Requirements for projects located in riparian reserves, including reserve dimensions, prohibitions and exclusions from prohibition, are identified in PCC 21.36.050 Section H.

V. **Mitigation Summary**

- A. If a Project Impact Assessment identifies the potential for significant impacts on the watershed, then the Bureau must prepare a Mitigation Summary (using a template substantially in accordance with **Exhibit C**).

- B. The Water Bureau must seek to avoid impacts to the greatest extent practicable in the project design, including impacts to water quantity and quality, cultural resources, and the natural environment including soils, vegetation, and fish and wildlife and related habitat.
- C. For significant impacts on the watershed that cannot be avoided, the Water Bureau must seek to minimize those impacts using mitigation measures. The Mitigation Summary must include the following, as applicable:
1. Permits and Standard Operating Procedures. The Water Bureau must mitigate significant impacts on the watershed using measures required by federal, state, county and local permits and by using Water Bureau best management practices as documented in standard operating procedures and provisions of regulatory compliance plans (e.g., HPMP or HCP). **Exhibit D** lists the standard operating procedures and regulatory compliance plans that exist or are planned at the time these rules were adopted.
  2. Project Specific Mitigation. For projects with significant impacts on the watershed not addressed by permits or existing standard operating procedures and regulatory compliance plans, the Water Bureau must seek to reduce or mitigate the impacts with project-specific measures. Mitigation can also include restoring land previously disturbed elsewhere, but opportunities for compensatory mitigation inside the Bull Run Closure Area are very limited and mitigation at a location other than the project site should be considered only after avoiding and minimizing impacts at the project site to the greatest extent practicable.
  3. Alternatives. If significant impacts on the watershed cannot be effectively avoided, minimized or mitigated in the proposed project design, then the Mitigation Summary must identify those remaining significant impacts, identify alternatives that would lessen the impact, and describe why those alternatives were not selected. The alternatives analysis must include: (i) not proceeding with the project (no action alternative); and (ii) at least one (1) project design alternative with a lesser level of impact.
- D. **Objections and Appeals**. The Mitigation Summary is subject to objection and appeal pursuant to PCC 21.36.050.F 5-7. The Project Impact Assessment is not subject to objection and appeal.
1. Objections. Objections must identify: (i) why the proposed mitigation is inadequate to avoid significant impacts on the watershed or reduce those impacts to a less than significant level; and (ii) what additional mitigation should be required.

2. Appeals. PCC 21.36.050.F 7 sets forth a process for appeals of a Water Bureau decision on an objection. Appeals must describe: (i) why the Water Bureau's response to the objection is inadequate, and (ii) what additional mitigation should be required.

## VI. **Administrative Review and Update**

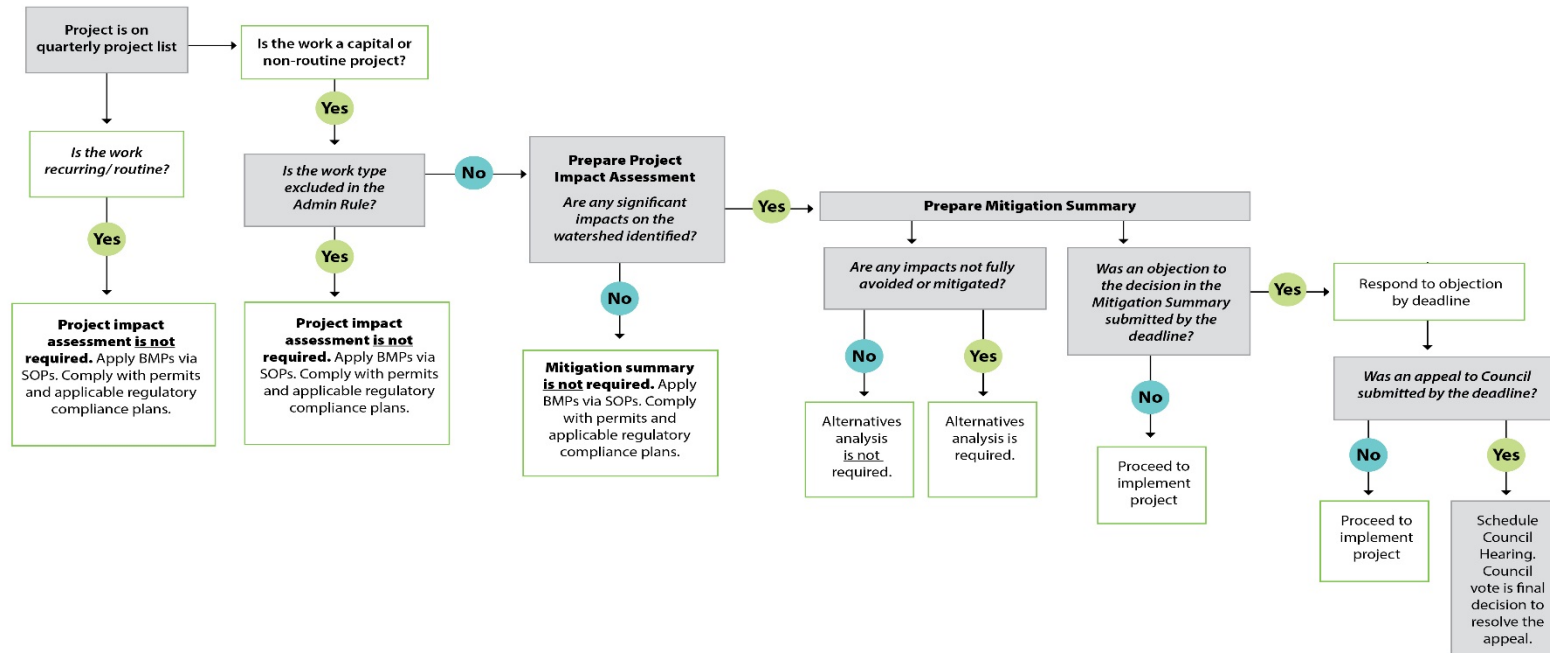
These rules are new for the Water Bureau and interested stakeholders. Accordingly, the Bureau will review and update the rules no later than five (5) years after adoption to incorporate lessons learned.

Exhibit A

Process Flowchart for Project Impact Assessment, Mitigation Summary, Objections and Appeal

Process steps as defined in Draft 21.36.050 Admin Rule

Shading indicates process step that involves public review and comment.





## **Exhibit B**

### **Project Impact Assessment**

#### **Background**

The intent of the Project Impact Assessment is to identify impacts early to enable Water Bureau staff to subsequently avoid, minimize or mitigate those impacts in the project design, and to enable public review and comment. A Project Impact Assessment is not required for all projects. See exceptions identified in the administrative rule.

A Project Impact Assessment will vary in length and detail depending on the project type and the level of associated impacts. A typical Project Impact Assessment document is anticipated to be less than 15 pages. Larger projects with greater potential impact might require longer documents. In some cases, county land use approvals (with approval conditions) and/or federal NEPA documents will also be required. The Project Impact Assessment must focus on environmental impacts defined in City Charter 11-107 and PCC 21.36.050, be summarized for the layperson, and be presented in a format that can be made available as an email attachment.

The Project Impact Assessment must be prepared in consultation with these Water Bureau staff or their designees: Engineering Supervisor for Supply Program, Bull Run Watershed Protection Manager, Environmental Compliance Manager, Cultural Resource Manager, and Land Use Coordinator.

The Project Impact Assessment is not intended to duplicate detail that might be prepared for an applicable Riparian Reserve Protection Plan, Erosion Control Plan, Tree Protection standard operating procedure project plan, permit application, or other similar documents. Those documents can be referenced in the Project Impact Assessment as existing or planned.

The Water Bureau must also prepare a map of the project location that identifies infrastructure locations, area previous disturbed, developed or deforested, riparian reserve dimensions, known sensitive habitat features, and known cultural resources in accordance with the Bull Run Historic Properties Management Plan. This locational information is needed internally to enable avoidance of impacts, but sharing the information may be sensitive for reasons of water system security and resource protection. Before sharing location information externally, the Water Bureau will consider sensitivity of the location information in cooperation with relevant management staff, regulatory agencies, Tribes, and partners, and will withhold sensitive location information from public review as necessary.

## **Template - Project Impact Assessment**

Project Name:

Purpose of the Project:

Date of the Impact Assessment:

Anticipated Project Timing (including approximate duration and season of construction):

Describe the permit or agency reviews likely required, including the potential for federal NEPA analysis:

Is this project part of a larger phased project? If yes, describe the larger project:

Project Location (attach map):

Project Size (approximate number of acres, and longest linear dimension):

The purpose of the following questions is two-fold: 1) to enable Water Bureau staff to avoid, minimize and mitigate impacts in the project design, and 2) to identify which impacts are deemed potentially significant impacts on the watershed and must be addressed in a Mitigation Summary.

### Water Flow and Water Quality

- Describe the potential for the project to adversely affect any surface waterbody. (perennial and intermittent streams, wetlands, lakes/reservoirs) on or in the immediate vicinity of the site.
- Will drainage at the project site be affected during or after completion of the project?
- Describe the potential for the project to adversely affect water quality, including water temperature and turbidity, at the site or downstream.
- Describe the likelihood and duration of in-water work as part of the project.
- Describe any aspects of the project that will remain in or on a water body after the project is complete.

### Vegetation

- Is the area of potential vegetation removal 0.5 acres or larger? (yes/no)
- Describe the trees, including hazard trees, that might be removed using standard protocols that consider approximate number, species, estimated age and diameter.
- Describe the type and amount of native vegetation that might be cleared.

- Describe the potential for adversely affecting late successional forest habitat.
- Describe the potential for at-risk plant species and their habitats to be present or near the site. Describe the likelihood that the project will adversely affect these species. If there is potential for at-risk plant species to be present, describe available strategies to avoid or minimize impacts and the need for and feasibility of conducting surveys to identify the presence of these species. If surveys are conducted, describe the results of the surveys.
- Describe the potential for importing invasive species in fill material (or rock/gravel) and for disturbing or spreading invasive plant species already present at the site.

#### Riparian Reserves

- Describe riparian reserves present or near the project site (see dimensions defined in PCC 21.36.050.G).
- Describe if and how the riparian reserve and associated habitat for at-risk species might be adversely affected by the project, including facility construction or subsequent facility operation.

#### Fish and Wildlife Habitat

- Describe the potential for fish and wildlife species listed as endangered or threatened under the federal Endangered Species Act and their habitats to be present at or near the project site. Describe the likelihood that the project will adversely affect these species.
- Describe the potential for other at-risk fish and wildlife species and their habitats to be present at or near the project site. Describe the likelihood that the project will adversely affect these species.
- If there is potential for at-risk species to be present, describe available strategies to avoid or minimize impacts and the need for and feasibility of conducting surveys to identify the presence of these species. If surveys are conducted, describe the results of the surveys.

#### Soils and Hillslopes

- Describe the extent (in acres) of ground disturbance anticipated, including construction staging areas.
- Is the area of potential ground disturbance 0.5 acres or larger? (yes/no)
- Describe the potential for the project to adversely affect previously undisturbed soils and to cause compaction that would inhibit site restoration post-construction.
- Describe the potential for erosion during and after construction, including the presence of erosion-prone soils.

- Describe steep and/or known unstable hillslopes present at or near the project site, including previous shallow or deep landslides identified in 2014 DOGAMI mapping.
- Describe the approximate amount of soil disturbance, grading, cut and fill, and/or excavation anticipated. Identify and describe the anticipated disposal area for excavated spoils if located within the Bull Run Closure Area.

#### Noise and Disturbance

- Describe the types of large equipment likely to be needed for the project (cranes, excavators, etc.).
- Are drones or helicopters likely to be needed at any point during the project?

#### Hazardous Materials

- Describe type and location of any toxic or hazardous chemicals that might be stored or used during the project construction, or during the operating life of the project.

#### Carbon Emissions

- Describe the number of truck trips anticipated to occur during construction.

#### Fire Risk

- Describe aspects of the project that might create a risk of fire (e.g., use of vehicles and powered equipment during the fire season, storage of fuel for equipment, burning of vegetation or debris).

#### Cultural Resources

- Identify and describe buildings, structures, or sites located on or near the site that are 45 years old or older and are listed or eligible for listing on national, state, or local preservation registers.
- Describe any known or likely areas of historic use or cultural importance at or near the site (e.g., evidence of previous use and occupation by Indigenous peoples).
- List any professional studies or surveys conducted at the site that identified historic or cultural resources.
- Describe the methods used to assess if there are potential impacts to cultural and historic resources on or near the project site. Examples include consultation with Tribes, archeologic surveys, historic maps, GIS data, etc.
- Describe the potential for the project to adversely affect cultural resources.

#### Identification of Potentially Significant Impacts

Significant impacts on the watershed require preparation of a Mitigation Summary document per PCC 21.36.050 Subsection G.4. Use the following criteria to assess the potential for significant impacts on the watershed:

- Magnitude. The amount of new ground disturbance or vegetation removal is 0.5 acres or larger.
- Location. The effects are outside previously deforested, disturbed and developed areas. The effects are within the stream channel up to the ordinary high-water mark of the Bull Run River or its tributaries.
- Threatened and endangered species. The effects may include impacts on federally-listed threatened or endangered species or their habitats that cannot be avoided or minimized by following existing regulatory permits and requirements, standard operating procedures or other relevant federal guidelines.
- Unusual circumstances. The effects are not anticipated in existing regulatory compliance plans and not easily addressed with anticipated permits or existing standard operating procedures.
- Cumulative. The effects are not significant within the planned project, but may be significant when considered in addition to past projects or future planned projects.
- Irreversible. The effects cannot be reversed with post-project restoration and revegetation.

Describe in a summary narrative the overall potential adverse effects of the project on the resources to be protected per PCC 21.36.050. Consider in the summary, for example, the combined effect of multiple different impacts from the project on a single at-risk species, area of land or water body, and indirect effects such as reduction of a key food source for an at-risk species.

## **Exhibit C Mitigation Summary**

### **Background**

A Mitigation Summary is not required for all projects. A Mitigation Summary is only required for projects for which a Project Impact Assessment is required and potentially significant impacts on the watershed are identified.

The Mitigation Summary is not intended to replicate detail in existing standard operating procedures, or related documents. Those documents can be referenced and the relevant aspects briefly summarized.

The Project Mitigation Summary should be prepared in consultation with these Water Bureau staff or their designees: Engineering Supervisor for Supply Program, Bull Run Watershed Protection Manager, Environmental Compliance Manager, Cultural Resources Manager, and Land Use Coordinator.

A Mitigation Summary document will vary in length and detail depending on the project type and the level of associated impacts. A typical Mitigation Summary is expected to be less than 15 pages. The Mitigation Summary can include excerpts from project specifications and construction drawings, but the document is not intended to include the entirety of those other documents. The Mitigation Summary must focus on environmental or cultural resource mitigation, be summarized for the layperson, and be presented in a format that can be made available as an email attachment.

## Template – Mitigation Summary

Project Name:

Date of the Mitigation Summary:

### Changes since Project Impact Assessment

Was the Project Impact Assessment substantially amended in response to public comment or based on project revisions by the Water Bureau? If yes, attach the amended Project Impact Assessment.

Has the footprint of the project design changed substantially since the Project Impact Assessment was prepared? If yes, attach an updated map.

Has the purpose of the project changed substantially since the Project Impact Assessment? If yes, describe the changes.

Have conditions in the watershed changed since the Project Impact Assessment (e.g., a large natural disturbance or discovery of a new sensitive resource)? If yes, describe the changes and update the impact assessment if needed to accommodate the change.

### Mitigation of Potential Impacts

The Mitigation Summary must address impacts identified as potentially significant on the watershed in the Project Impact Assessment and should include the following content:

- Summarize mitigation measures to comply with City, county, state and federal regulations and permits as they apply to potentially significant impacts on the watershed identified in the Project Impact Assessment.
- Summarize provisions of existing regulatory compliance plans that apply to potentially significant impacts on the watershed in the Project Impact Assessment the project and summarize how they will be implemented.
- List the Water Bureau's standard operating procedures that apply to the project and summarize how they will be implemented to mitigate potentially significant impacts on the watershed identified in the Project Impact Assessment.
- Summarize additional planned mitigation measures, if any, that surpass what is required by the regulations, permits and regulatory compliance plans listed above.

### Alternatives to the Water Bureau Project Design

If potentially significant impacts on the watershed described in the Project Impact Assessment cannot be effectively avoided, minimized or mitigated, then the Mitigation Summary must also:

- Describe the no action alternative, including any consequences to the Water Bureau or water system if the project does not proceed.
- Describe at least one alternative project design or mitigation strategy with less impact than the Water Bureau's chosen project design, including any

consequences to the Water Bureau or water system if the alternative were to be implemented.



**Exhibit D**  
**Water Bureau Best Management Practices, Standard Operating Procedures  
and Regulatory Compliance Plans**

The following documents describe best management practices, protocols and procedures routinely applied to avoid, reduce or mitigate the environmental impacts of City projects inside the Bull Run Closure Area. Best management practices are documented in standard operating procedures (SOPs) and in standard contract specifications (Bull Run Special Provisions).

PCC 21.36.050 G3 requires the Bull Run Special Provisions to include relevant requirements from PCC 21.36.050 so that those requirements can be incorporated into project-specific contract specifications. PCC 21.36.050 G4 requires that:

*“The Portland Water Bureau must establish best management practices (BMPs), on an ongoing basis, to be employed in the implementation of ongoing routine programs and during emergency responses. The BMPs must avoid, then minimize and mitigate, impacts to City land in the Closure Area to the greatest extent practical. The BMPs must be consistent with, and at least as protective as, comparable BMPs on national forest land in the Bull Run Watershed Management Unit. BMPs must be documented in standard operating procedures. BMPs must enable compliance with applicable City, county, state and federal requirements and permits.”*

Existing

- Bull Run Closure Area Security Procedures (Section 00202, Bull Run Special Provisions)
- Bull Run Watershed Closure Area Special Requirements (Section 00203, Bull Run Special Provisions)
- Bull Run Watershed Closure Area Seeding (Section 01030, Bull Run Special Provisions)
- Tree Protection SOP
- Invasive Plants SOP
- Aquatic Invasive Species SOP
- Wet Weather Construction SOP
- Hazardous Materials Spill Reporting, Storage and Disposal SOP
- Northern Spotted Owl Guidelines
- Human Sewage Containment SOP
- Bull Run Access SOP
- Industrial Fire Precaution Level (IFPL) and Fire Season Requirements
- Bull Run Water Supply Habitat Conservation Plan

### Planned

- Riparian Reserve Protection Plan SOP
- Revegetation/Site Restoration SOP
- Updates to Bull Run Special Provisions to incorporate code requirements (i.e., PCC 21.36.050 Sections H, I, J and K and any relevant SOPs created after adoption of this rule)
- Inadvertent Discovery Protocol (for protection of cultural artifacts)
- Historic Properties Management Plan
- Manual for Built Resources
- List of federally-listed endangered or threatened species and other at-risk species that are likely to be present on city-owned lands in the Bull Run Closure Area