

# CWG Meeting: Trees & Superfund

February 23, 2024

## Attendees

Collaborative Working Group	
In-Person	Online
Tanya Hartnett	Benton Strong
Bob Sallinger	Rose Longoria
Corky Collier	Cara Nolan
Cassie Cohen	
Steph Routh	
Jon Isaacs	
Other Participants	
Patricia Diefenderfer, BPS	Deb Meihoff, facilitator
Tom Armstrong, BPS	Marie Walkiewicz, BES
Steve Kountz, BPS	Timothy Novak, BDS
Sam Brookham, BPS	Daniel Soebbing, BPS
Jeff Caudill, BPS	Jessica Mooring, BPS
Christina Ghan, Comm. Rubio's Office	
Annie Von Burg, BES	
Jenn Bildersee, BES	
Madi Novak, EPA	
Brian Landoe, Urban Forestry	
Debbie Silva, Working Waterfront Coalition	

## Notes

- Patricia – originally we asked the group to commit to a collaborative, open space; we are asking the group to recommit to this process and have open and honest conversations. Concerned that there are other conversations occurring outside these meetings that serve to undermine this process.

## Portland Harbor Superfund

- Tom – one of the key EOA assumptions is about redevelopment and reinvestment expectations in the Portland Harbor, especially as it relates to the Superfund clean-up, liability, and natural resources mitigation. Part of that is understanding the process and when we might reach a point of resolution, when businesses feel comfortable to invest.
- Annie – intent is to provide high level overview, EPA's perspective, overview of how the City is involved and its role, next steps, etc.

- Madi Novak, EPA –
  - update on progress on superfund site
    - Over 150 responsible parties –
      - Some have signed up for design work
      - Community engagement includes Willamette Riverkeeper, Portland Harbor Community Coalition, 6 tribes, and others.
    - Portland Harbor spans 10 miles of river – starts at north end of downtown to the mouth of river.
    - In general, EPA is responsible for clean-up in the river and the river bank with DEQ responsible for clean-up on the uplands.
    - Record of Decision (the ROD) in 2017 says generally, in concept, how cleanup gets addressed. Now in design phase. – moving to implementation
    - Identified 64 chemicals of concern
    - 17 different project areas, each with individual designs for remediation at different phases.
  - Progress
    - Lots of sampling
    - No remediation yet
    - Targeting 2026 to begin remedial action work
      - Remedial action expected to take 30 years (including monitoring)
      - One of EPA's main priorities
  - Land use
    - In water, shore, and riverbanks
    - Influence on development and land use is limited depending on design and decisions made.
      - There are some places where the contamination will be left in place; will need to be some controls, e.g., a cap with future restrictions on land use
      - Land use is considered in the selection of a remedy
      - Some areas will be dredged for contamination removal
      - Performing parties are engaging with landowners potentially impacted by design
- Bob Sallinger – Superfund is used as an obstruction to progress on the river; forces that use it to delay and maintain status quo are also reluctant to move on superfund so prevent progress; all things need to move forward together; community wants river cleanup, recreation, jobs, etc. – all need to be synchronistic.
  - Madi – superfund liability makes things uncertain; at a point now where EPA can provide more certainty and provide solid updates about what it will look like in the coming years; EPA has one slice on the bigger picture that everyone wants. EPA and others are doing the work to engage and connect the pieces/parts.
- Cassie Cohen – The City has contract with WorkSystems Inc to look at job opportunities related to Willamette Cove in-water clean-up. It has been delayed because more information is needed. Is there an update?
  - Annie – The City and WorkSystems have been working on report/analysis to forecast job opportunities as result of cleanup. Delays were because of limited data. Willamette Cove

being used as a pilot project to give real time data and something that can be scaled up. WorkSystems Inc experiencing similar issues with data. First draft impending.

- Rose Longoria – conflicting messaging around Portland Harbor, some good feedback on progress made. Trying to understand various land use and the need for industrial land. Superfund over 10 mile stretch includes upland sites. Lack of clarity on superfund boundaries and how it impacts available industrial land.
  - Timelines: blown through a lot of timelines; EPA came out to tribes and Yakima Nation to talk about timeline; heard cleanup within 30 years, but that is not the case – target is 2026 to start remediation, with 30 years of M&R.
- Timothy Novak –
  - Superfund been used to avoid doing greenway planting
  - Quick capping process is creating challenges for industrial prospects
- Bob – Delay tactics have resulted in continued loss of habitat and ecological function of the river.
  - Madi – habitat aspect...
    - NOAH process to determine habitat restoration needed from the harm done by contamination.
    - EPA primary responsibility is to assess risks to human health but also limit adverse habitat impacts during construction
    - Rose – track record is poor. BiOp and engagement should have occurred with ROD. Piecemeal habitat restoration endangers certain species.
- Jeff – if capping is the preferred design solution, what does it mean for what can be done in the future?
  - Madi – dependent on situation, but if there is waste left in place and capped, there will be institutional controls around knowing that waste is there – no construction could penetrate the cap. As time goes on there could be different situations.
- Annie – City role
  - City has multiple roles/lenses
    - Potential responsible party (PRP)
    - Regulator
    - Habitat steward
  - 18 individual sites. Partial funder on 8 sites. Performing work on others.
  - Priorities
    - RM 11 East
      - 30% design in Winter 2023
    - Willamette Cove
      - 30% design in Spring 2024; 100% in 2026
    - Transitioning from design to implementation
  - Liability Settlement process – Who pays? How much?
    - Cassie – does City see itself as a performing party?
      - Annie – cannot discuss due to confidentiality but everything is on the table
  - City has been supporting the Natural Resources Damages (NRD) settlement process
    - Network has been set up with restoration banks
    - First wave of settlements (consent decrees) in November 2023

- Covers only 11% of total damages
    - City's portion (completes liability) was \$4.8m
  - Bob – concerning that groups with the deepest pockets are exiting process early with the first wave. Public in vulnerable position because public agencies are both watchdogs and PRPs looking to minimize their liability. Who is guarding the public trust? What happens when there is a gap?
    - Cassie – inequitable breakdown of how individual ratepayers are charged; corporate users are charged the same.
    - Annie – there is a public process to address rates.
  - Rose – NRD settlement does not eliminate damage to Yakima Nation. Decisions are being made without the benefit of the BiOp.
  - Madi – BiOp from NOAH should be coming soon.
    - Bob – how do we get confirmation on BiOp timeline? Process is very hidden. We give lots of input but see very little in return. BiOp is critical and gets to most of the questions we've had.
    - Madi – BiOp process shouldn't be confidential; just need to ask.
- Corky Collier – upland land supply – how to move forward with redevelopment?
  - Madi – superfund up to riverbank, impacts river dependent. Upland requires property owner and DEQ coordination to understand contamination and cleanup.
  - Rose – superfund boundaries include upland and in-water. DEQ the lead on uplands, EPA still has a responsibility. Concerned about the de-prioritization of upland sites.
  - Jenn Bildersee – plenty of brownfield sites not in superfund
    - Patricia – it will be good to have Jenn back re non-superfund brownfield remediation
- Tom – lots more City control/opportunities to support brownfield redevelopments outside of the superfund

#### Title 11 Tree Regulations and Heavy Industrial Zone.

- Brian Landoe – In Fall 2020, the City adopted tree preservation and planting requirements for the General Industrial (IG) and General Employment (EG) zones, but not the Heavy Industrial (IH) zone with a Council to revisit the IH zones as part of the next EOA update.
- Cassie – why is target only 10% canopy coverage in industrial zones?
  - Brian – The target was established in under previous Urban Forestry Management Plan. Will be updating with new plan.
    - Citywide it is 30% canopy coverage.
- Bob – why are we going backwards (seeing a decline in coverage).
  - Brian – lots of exemptions; development and climate change (heat) are drivers of tree loss.
- Corky – data? Lots of speculation.
  - Brian – part of urban forest plan is looking at 10 year data and factors for that decline
  - Corky – are we looking at analysis within the plan? Might want to hold off on planting certain species.
- 164 acres lost across all industrial zones

- Cassie – can we also look air quality impacts of canopy?
  - Brian – amount of air pollution that is removed
    - 7000 trees equates to 3.5 tons
- Bob – Title 11 implemented 2015, done in 2011. One of the last things taken out of that plan was industrial lands because there was no updated EOA. Hearing rumors about postponing the EOA to next council – trees are vulnerable. Need to proceed under this council.
  - Steve – tree code was applied in two-thirds of industrial land where most of the development has occurred.
- Bob – how well is greenway protecting trees? Can cut trees in these areas. City does not enforce planting requirements. River industrial zones and setbacks have been ineffective.
  - Timothy – within greenway overlay, trees protected only within the greenway setback
  - Jeff – we have focused in on how the greenway actually constrains development and protects trees
  - Bob – disconnect between people not complying with mitigation requirements and still proceeding to get additional permits
    - Jeff – Greenway violation, use a complaint-based system.
- Patricia – satisfying multiple requirements through tree planting, e.g., landscaping, planting, etc.
- Corky – concerns we’re missing some perspective. Industrial areas are 1/3 open space. Intentional set-asides of open space to offset parking lots and impervious surfaces. Need to add value of industrial area relative to value of trees.
- Bob – industrial sector wanted a zoning approach, bait and switch. What are the opportunity areas? Need high-level perspective and not site-by-site.

### Next Steps

- Tom – need for 1-2 more meetings between March and May. Lots of feedback and requests, e.g., floodplain, wages, etc. We can send a list of additional things to address. April would be an opportunity to review recommendations and policy choices.
  - Corky – does not feel like we’re at the end.
  - Patricia – could be a pause to allow BPS to do the work and reconvene the group.
  - Benton – need to have a conversation about what the recommendations might be. Clear and understandable frustrations about processes. Need clarity about what we can and cannot do.
- Cassie – more substantive drafts ahead of meeting rather than informational; breakdown of the content being drafted.
- Steph – have we brought into the conversation vertical industrial, wages, public health overlay zone (Eugene).