

W.6.a.

AGENDA COVER MEMO



Memo Date: January 4, 2010
Work Session Date: January 12, 2010
Board Meeting Date: January 27, 2010

TO: Board of County Commissioners
DEPARTMENT: County Administration
PRESENTED BY: Larry Six, McKenzie Watershed Council Coordinator
AGENDA ITEM TITLE: Cedar Creek Partnership Memorandum of Understanding (MOU) for Implementation of the Salmon Trout Enhancement Program (STEP) in the Cedar Creek Watershed.

I. MOTION:

For January 12, 2010: No motion requested. This work session presents the Draft MOU to the Board for consideration, potential revision, and setting the timeframe for approval.

For January 27, 2010: Move for approval of establishing the Cedar Creek Partnership and authorize the Chair or County Administrator to sign the MOU.

II. AGENDA ITEM SUMMARY

The McKenzie Watershed Council is requesting Lane County Board commitment for participation in the Oregon Department of Fish and Wildlife (ODF&W) STEP program for restoration of fish and wildlife habitat and water quality in the Cedar Creek watershed. Cedar Creek is a tributary of the lower McKenzie River to the north and east of the City of Springfield. Most of the watershed is outside the urban growth boundary. A memorandum of understanding (Attachment 1) has been prepared to formalize the partnership. The partners include the Cedar Creek Irrigation Association, City of Springfield, Eugene Water & Electric Board, McKenzie Watershed Council, Springfield Utility Board, Springfield Public School District and Willamalane Park and Recreation District. All of these partners have agreed to participate and approved the MOU and are prepared to sign the document in the form presented to the Board.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

Location

Cedar Creek is a tributary of the lower McKenzie River and drains into a watershed of approximately eleven square miles (Attachment 2). Streams in the Cedar Creek watershed total about 19.75 miles in length, the majority of which are designated as fish-bearing. The lower main channel of Cedar Creek is approximately eight miles long in the historic meander zone of the McKenzie River. Cedar Creek crosses under McKenzie Highway (Highway 126) near Cedar Flat and connects to a diversion from the McKenzie River. During the summer months, the flow contribution from the headwater area is very low. Water from the McKenzie River has flowed through head gates since 1915 to augment the natural flow of Cedar Creek year round.

Metro Waterways Study

In 2004, the Eugene-Springfield Metropolitan Waterways Study was initiated by the U.S. Army Corps of Engineers, in partnership with the cities of Eugene and Springfield, Eugene Water and Electric Board, and Lane County. This multi-year study was designed to provide a better understanding of existing problems and opportunities related to area waterways and identify solutions to improve these waterways. (Attachment 3, Metro Waterways Study – Cedar Creek Summary)

The first phase of this study focused on two local urban streams, one in each of the Metro Cities: Amazon Creek in the Eugene area and Cedar Creek in the Springfield area. The Cedar Creek Planning Area is located in east Springfield with much of the study area lying outside of the urban growth boundary and the urbanized area. The Metro Waterways Study objectives included improving in-stream and adjacent natural habitats, repairing waterways with degraded conditions, managing water resources, and reducing flood risks and damages.

The Metro Waterways Integrated Feasibility Report and Environmental Assessment concluded that the current water right of 5.29 cfs of water from the McKenzie River to Cedar Creek would be inadequate during the summer, low flow period to meet needs for critical in-stream habitat, irrigation users, and to augment groundwater supply to off-set impacts associated with groundwater extraction for public drinking water. Without a permanent fix to the water diversion from the McKenzie River, Cedar Creek would likely become dry in the low flow months.

The study also concluded that Cedar Creek would be positively impacted by its reconnection to the McKenzie River by providing reliable and sustainable flows during the low-flow season with higher flows during periods of the winter to maintain in-stream habitat features. The water diversion would improve fish and aquatic habitat and would not significantly impact the McKenzie River because the proposal would not change the flow regime from historic and existing flow conditions.

Salmon and Trout Enhancement Project (STEP)

The partners have been meeting since January 2008 to discuss recommendations from the Metro Waterways Study including a long-term solution to the problem of inadequate flows in Cedar Creek. In June 2009, on behalf of the local partners, the McKenzie Watershed Council applied to the Oregon Department of Fish and Wildlife to establish a STEP project that would allow diversion of additional flows into Cedar Creek from the McKenzie River, in lieu of a water right. In October 2009, ODFW approved the STEP project application. (Attachment 4, STEP Program Summary)

The Oregon Department of Water Resources recognizes such diversions under a STEP project pursuant to ORS 537.142, which states that: *(1) No water right certificate or permit is required for the use of surface waters of this state if the water is to be used for a salmon and trout enhancement project certified by the State Department of Fish and Wildlife under ORS 496.430 to 496.460.* An example of an existing similar STEP project is the Delta Ponds project that allows the diversion of Willamette River flow into the Delta Ponds to provide adequate flows for fish habitat year round in this area.

B. Policy Issues

Lane County has an interest in ensuring watershed health. This includes water quality, fish and wildlife habitat, recreational opportunities, educational activities, and citizen participation. The

County also has an interest in ensuring Cedar Creek residents benefit from the County's participation in the FEMA Community Rating System for flood resilience. Most of the Cedar Creek watershed is outside of Springfield's urban growth boundary.

All of the partners except Lane County have approved the MOU and are prepared to sign it. Approval and signature by Lane County would complete the partnership.

C. Board Goals

Approval and signature to the attached Intergovernmental Agreement would support the following Lane County Strategic Goals adopted by the Board:

- Provide opportunities for citizen participation in decision making, voting, volunteerism and civic and community involvement.
- Contribute to appropriate community development in the areas of transportation and telecommunications infrastructure, housing, growth management and land development.

D. Financial and/or Resource Considerations

The MOU does not obligate partners to provide direct financial contributions. There is an expectation that each partner would provide a staff person to attend meetings, help document in-kind contributions, review grant applications and/or assist with landowner outreach. County staff time commitments are estimated to be 2-4 hours per quarter.

E. Analysis

The goal of the STEP project is to provide in-stream flow in lower Cedar Creek to meet minimum requirements for aquatic life during low flow months and to provide off channel rearing habitat for fish during high flow months. The objectives are:

Objective 1. Provide a minimum of 10 cubic feet per second (cfs) of water from the McKenzie River during May through October exclusively for maintaining aquatic life (additional to currently authorized 5.29 cfs water rights).

Objective 2. Provide a maximum of 250 cfs in Cedar Creek during November through April to provide off-channel winter rearing habitat for native McKenzie River fish populations.

Objective 3. Provide upstream and downstream fish passage into Cedar Creek all year to allow access to rearing habitat for native McKenzie River fish populations.

Objective 4. Provide a community STEP project for landowners and volunteers in the area adjoining lower Cedar Creek.

Objective 5. Report on the effectiveness of the STEP project for providing adequate instream flow for fish and wildlife in Cedar Creek.

Proposed Cedar Creek Partnership and MOU

The proposed MOU formalizes the partnership involving all of the entities with an interest in improving fish and wildlife habitat and water quality of Cedar Creek. The partners include the Cedar Creek Irrigation Association, City of Springfield, Eugene Water & Electric Board, McKenzie Watershed Council, Springfield Utility Board, Springfield Public School District, Willamalane Park and Recreation District and Lane County. No party has an obligation to contribute funds. However, the parties will provide in-kind donations and tracking of project staff time, as appropriate, to aid grant funding and project efforts.

The goals of this collaborative effort are to:

- Agree upon a flow rate appropriate for Cedar Creek to support fish habitat goals and be protective of infrastructure and waterways;
- Secure stream flow at the appropriate rate via diversion of McKenzie River water under a Salmon-Trout Enhancement Program (STEP) project;
- Support planning and design efforts related to the placement and sizing of a new intake to allow and maintain the desired flow;
- Protect and restore the water quality, fish and wildlife habitat, and riparian function of Cedar Creek; and
- Support existing agency missions and partnership agreements.

It is the intent of the Partnership to work closely with ODFW to implement the STEP project and to work with landowners and volunteers to develop and implement riparian and aquatic habitat enhancement projects. The Partnership would provide a strong local collaborative effort that will enhance our ability to leverage local matching dollars and attract outside financial support.

F. Alternatives/Options

Option 1. Approve the MOU as written and authorize the Chair or County Administrator to sign it.

Option 2. Revise the MOU and authorize the Chair or County Administrator to sign it as amended.

Option 3. Do not approve the MOU.

IV. TIMING/IMPLEMENTATION

The Cedar Creek partnership is established as a 'committee' of the McKenzie Watershed Council, the STEP program is approved by ODFW, and the partners are developing the actual work program on the ground that will be geared to implement the STEP program. Signature on the MOU will ensure participation by the parties. Timely implementation of the project will meet the needs of the target species once the on-the-ground work can be initiated. Minimum flows in Cedar Creek during May through October should be approximately 15 cfs to adequately meet irrigation, groundwater recharge supplies and aquatic habitat needs. During high flow periods, flows of up to 250 cfs would maintain channel complexity and aquatic habitat. Flow should be allowed to rise and fall with the McKenzie River elevation to mimic normal side channel habitat fluctuations and to provide attraction flows for upstream and downstream migrating fish.

V. RECOMMENDATION

The McKenzie Watershed Council and other partners recommend Option 1.

VI. FOLLOW-UP

The McKenzie Watershed Council coordination efforts to ensure all parties sign the MOU will continue through the winter months. On the ground project planning and development under ODFW guidelines and regulations are underway. Actual in-stream habitat work would ideally begin summer of 2010, but is contingent on completion of design and engineering, approval by regulatory agencies and the necessary in-water work windows. Actual on the ground work will be done by ODFW, McKenzie Watershed Council, volunteers and land owners.

VII. ATTACHMENTS

1. DRAFT Memorandum of Understanding to Establish a Cedar Creek Partnership
2. Map of the Cedar Creek Watershed
3. Metro Waterways Study – Cedar Creek Summary
4. STEP Program Summary

**Cedar Creek Partnership
Memorandum of Understanding**

**MEMORANDUM OF UNDERSTANDING
AMONG**

**Cedar Creek Irrigation and Flood Control Association,
Eugene Water & Electric Board, Springfield Utility Board,
Willamalane Park and Recreation District, Lane County,
City of Springfield, Springfield Public School District and McKenzie Watershed Council**

**TO ESTABLISH A
CEDAR CREEK PARTNERSHIP**

A. INTRODUCTION

This Memorandum of Understanding (MOU) establishes a formal relationship of the Cedar Creek Partnership (Partnership), a cooperative unit of entities having interest in the Cedar Creek watershed including, but not limited to: Cedar Creek Irrigation and Flood Control Association, City of Springfield, Eugene Water & Electric Board, Springfield Utility Board, the McKenzie Watershed Council, Lane County, Springfield Public School District, and Willamalane Park and Recreation District. The term "Partnership" as used herein means making a collaborative effort, and does NOT imply any joint venture or joint ownership of any real or personal property as the term "partnership" is defined in ORS 67.005.

The mission of the Partnership is to cooperate on endeavors related to maintaining the stream flows in Cedar Creek necessary to support functional fisheries habitat and enhancing the water quality and riparian function of Cedar Creek.

The above-named parties to this MOU (Parties) are committed to fostering supportive relationships toward this mission and the securing and maintenance of flows in Cedar Creek appropriate to support native fish populations and water quality goals. This commitment is reinforced by policies internal to each entity and the directions established and adopted through the Metro Waterways Cedar Creek priority planning effort (Metro Waterways Draft Integrated Feasibility Report and Environmental Assessment Report, Lane Council of Governments, December 2007). In order to sustain long-term commitment, the signatories agree to establish, implement, and evaluate the goals and roles described herein.

The goals of this collaborative effort are to:

- Agree upon a flow rate appropriate for Cedar Creek to support fish habitat goals and be protective of infrastructure and waterways;
- Secure stream flow at the appropriate rate via diversion of McKenzie River water under a Salmon-Trout Enhancement Program (STEP) project;
- Support planning and design efforts related to the placement and sizing of a new intake to allow and maintain the desired flow;
- Protect and restore the water quality, fish and wildlife habitat, and riparian function of Cedar Creek; and
- Support existing agency missions and partnership agreements.

**Cedar Creek Partnership
Memorandum of Understanding**

In the spirit of achieving these objectives, the Parties agree to maintain a cooperative working relationship and promote maintained stream flows, fish and wildlife habitat, and water quality.

This MOU does not create enforceable legal obligations, but rather is an expression of intent by the Parties to work with one another as partners to meet the goals expressed herein.

Nothing in this agreement is intended, nor shall it act in any way to alter, impede, or interfere with the Parties carrying out their individual responsibilities, missions, or regulatory compliance. Nothing in this agreement should be construed as delegating any responsibilities or authority of any of the Parties to this agreement to any other party or parties to this agreement.

B. PURPOSE

The purpose of this MOU is to

1. Identify the core partnership (the Parties to this MOU) who will participate in meetings, correspondence, and cooperative planning efforts related to maintenance of flows, water quality, fish and wildlife habitat, and riparian function in lower Cedar Creek.
2. Establish a contact entity for other entities to address correspondence and submit information regarding Cedar Creek flow. Establishment of this contact entity does not preclude or eliminate the necessity for notices and information required to be submitted between the parties by other city, county, state and federal laws and regulations.
3. Establish the entity/entities that will assist with upholding the requirements of the Salmon-Trout Enhancement Program (STEP) project.

Through this document, the Parties will establish a common agenda to work together on the goals stated in this MOU. Benefits of this collaboration include: offering a clear entity for contact and information sharing in regards to Cedar Creek flow; reducing expenses by sharing knowledge and resources; and minimizing duplication of effort.

C. AREAS OF MUTUAL BENEFIT AND INTEREST

The Parties acknowledge the following interests and mutual benefits of participating in the Partnership:

Cedar Creek Irrigation and Flood Control Association: The Association needs to maintain flows for irrigation that are considerably lower than that required for functional summer fish habitat. Association landowners additionally benefit from the aesthetics of summer time flows and seasonal flood management. The Association has a stake and interest in maintenance of the headgate and water right for irrigation flows.

Cedar Creek Partnership Memorandum of Understanding

Springfield Utility Board: SUB requires a level of flow in Cedar Creek that maintains groundwater recharge in the vicinity of its Thurston well field. Water rights for several of the new and future wells are contingent on minimum water flows being maintained in Cedar Creek. SUB has a stake in ensuring water quality is maintained in Cedar Creek for well field drinking water quality. Maintaining a high flow rate in Cedar Creek insures against diminished water quality and quantity due to low summer flows.

Eugene Water & Electric Board: EWEB's primary interest is in McKenzie Watershed water quality protection and monitoring. EWEB's water intake is located downstream of Cedar Creek at Hayden Bridge. EWEB has maintained a USGS stream gauge on Cedar Creek in the past.

City of Springfield: The City is a watershed community member and has interest in Cedar Creek watershed protection, stormwater quality, and floodplain management/flood control. The City manages stormwater in the urban tributaries that collect drainage from the southern hills and from the developed lands in the Thurston area. The City has adopted several programmatic approaches to stormwater quality improvement and is a partner in the Metro Waterways planning vision for Cedar Creek urban channel enhancements. Springfield is supportive of the efforts to maintain flows in Cedar Creek and manage the creek for valuable fish habitat, as well as the value that the aesthetic and recreational resource the Cedar Creek watershed provides to the quality of life to the Springfield community. The City supports the flow management effort as a watershed partner, although Springfield has no operational needs to maintain Cedar Creek flow.

McKenzie Watershed Council: The Council serves as the umbrella organization through which all members of the Partnership are participants toward the enhancement and protection of the McKenzie Watershed. The Cedar Creek floodplain represents a key restoration opportunity in the lower watershed as outlined in the Metro Waterways Study and the Council's McKenzie River watershed conservation strategy, which identify Cedar Creek as a priority restoration area. The McKenzie Watershed Council provides the mechanism to leverage the cooperative effort of the Partnership. The Council recognizes this Partnership as a good venue for attracting funding for Cedar Creek enhancement and for building partnership efforts.

Willamalane Park and Recreation District: Willamalane is a land manager and partner in recreational trail and park use in the Cedar Creek watershed. Improved aesthetic, water, and habitat qualities and educational opportunities enhance and complement Willamalane's mission.

Lane County: Lane County has land management interest in maintaining water quality in Cedar Creek and ensuring Cedar Creek residents benefit from the County's participation in the FEMA Community Rating System for flood resilience. Lane County recognizes the McKenzie Watershed Council as the appropriate coordinating entity for water improvement programs in the Cedar Creek area.

Springfield Public School District: The school district's interest in Cedar Creek is as riparian property owner and watershed educator. Thurston Middle School grounds are adjacent to South Cedar Creek and students from Thurston High School have been collecting water quality data from eight sites on the creek for ten years. Students from both the high school and middle school have been involved in riparian restoration improvements along the creek.

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Memorandum of Understanding**

D. ROLES & RESPONSIBILITIES OF PARTIES

The Parties acknowledge the following roles and responsibilities in implementing this MOU. No party has an obligation to contribute funds. However, the parties will provide in-kind donations and tracking of project staff time, as appropriate, to aid grant funding and project efforts.

Cedar Creek Irrigation and Flood Control Association:

- Control and operate diversion gates
- Provide routine operating maintenance
- Assist with landowner outreach
- Tasks as may be determined appropriate in the discretion of the Association

Springfield Utility Board:

- Assist with permitting process related to operation of the headgates
- Assist with water quality monitoring and stream flow measurements
- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Tasks as may be determined appropriate in the discretion of the Board

Eugene Water & Electric Board:

- Support restoration efforts and outreach to landowners
- Assist with water quality monitoring and stream flow measurements
- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Tasks as may be determined appropriate in the discretion of the Board

City of Springfield:

- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Continue programmatic approaches to water quality enhancement in urban tributaries to Cedar Creek
- Provide meeting space as appropriate
- Tasks as may be determined appropriate in the discretion of the City

McKenzie Watershed Council:

- Foster collaborations and partnerships to support restoration projects in the Cedar Creek watershed
- Apply for and support applications for grants and project development (including STEP project)
- Fiscal management of grant-funded projects awarded to the Council
- Project management of Council-led riparian and aquatic enhancement efforts
- Help coordinate outreach to landowners
- Update the Lane County Board of Commissioners on Cedar Creek project activity
- Tasks as may be determined appropriate in the discretion of the Council

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Memorandum of Understanding**

Willamalane Park & Recreation District:

- Support restoration efforts
- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Provide meeting space as appropriate
- Tasks as may be determined appropriate in the discretion of the District

Lane County:

- Assist with outreach to landowners
- Regulation of land development on property in the Cedar Creek area that is outside the city of Springfield
- Assurance of continuation in the FEMA Community Rating System for landowners in Cedar Creek
- Tasks as may be determined appropriate in the discretion of the Board of Commissioners

Springfield Public School District:

- Continue Water Quality Monitoring program from eight sites along Cedar Creek
- Share data with participating parties through written reports and presentations at watershed council meetings
- Middle and high school students will participate in riparian restoration projects
- Tasks as may be determined appropriate in the discretion of the District

E. AREAS OF AGREEMENT

The Parties agree to cooperate regarding their mutual interests and benefits related to maintaining the stream flows in Cedar Creek necessary to support functional fish habitat and enhancing the water quality and riparian function of Cedar Creek in the following ways:

- Providing meeting space and recording minutes
- Receiving correspondence and disseminating it to the Partnership
- Providing support for monitoring and project management via the McKenzie Watershed Council
- Providing support for cooperative management of a Cedar Creek stream gauge
- Compiling and sharing monitoring data related to individual projects and goals
- Maintaining open lines of communication among the Partnership regarding individual projects and efforts that are related to or impact Cedar Creek flows, water quality or habitat
- Cooperating on mutual restoration or water quality management projects
- Cooperating and providing support for other mutually agreed upon similar activities
- Finding a solution to long term flow management in Cedar Creek

The Parties, upon mutual agreement, may decide to purchase goods and/or contract for mutual beneficial services (a project) for the benefit of the group. Any such purchase or contract may be

Cedar Creek Partnership
Memorandum of Understanding

sought through mutual consent of all Parties. Funding of any such project will be determined by the Parties prior to any promise to purchase or commencement of any form of contract.

F. CHANGES TO THE AGREEMENT

Amendments or additional appendices may be developed and implemented by mutual written agreement of the signatories at any time without renegotiating the entire MOU. A party may also terminate its participation in this agreement after providing 30 days written notice to the other parties. New parties may join the Partnership with unanimous consent of the parties to the MOU by agreeing to the provisions in this MOU and adding their appropriate signatures to this document.

G. EFFECTIVE DATE OF AGREEMENT

This Agreement is effective from the date of last signature and remains in effect unless modified or revoked by all parties. Any party may choose to terminate its participation in the agreement with 30-days written notification to the remaining parties of the Partnership.

H. ORGANIZATIONAL STRUCTURE

Each Partner shall designate at least one contact to serve as liaison and representative to its organization. These individuals shall provide input to the Partnership on this initiative. The Partnership meets as needed to conduct business in a participating group setting. All ideas are encouraged and welcome. Appropriate projects, work group formations, and courses of action are determined by a consensus of the members.

The McKenzie Watershed Council representative shall organize meetings and be the default chair of meetings if no other chair or meeting lead is designated by mutual consent of the Parties.

I. INDEMNIFICATION AND WAIVER OF SUBROGATION

Indemnification and Hold Harmless. Each of the parties agrees to defend, indemnify, and hold the other harmless from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses, resulting from or arising out of any negligent performance or failure to perform on the part of the indemnifying party, its officers, employees or agents. The defense, indemnity, and hold harmless obligations of the Eugene Water & Electric Board, Springfield Utility Board, Lane County, Springfield School District 19, Willamalane Park and Recreation District, and the City of Springfield are subject to the limitations of Oregon law including but not limited to the Oregon Governmental Tort Claims Act, ORS 30.260 et seq. and any applicable limitations of the Oregon Constitution.

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Memorandum of Understanding**

J. AUTHORIZING PARTIES

CEDAR CREEK IRRIGATION AND FLOOD CONTROL ASSOCIATION

Signature of Authorized Representative _____

Title _____ Date _____

CITY OF SPRINGFIELD

Signature of City Manager _____ Date _____

EUGENE WATER & ELECTRIC BOARD

Signature of Authorized Representative _____

Title _____ Date _____

SPRINGFIELD UTILITY BOARD

Signature of Authorized Representative _____

Title _____ Date _____

MCKENZIE WATERSHED COUNCIL

Signature of Authorized Representative _____

Title _____ Date _____

WILLAMALANE PARK AND RECREATION DISTRICT

Signature of Board President _____ Date _____

Signature of Superintendent _____ Date _____

LANE COUNTY BOARD OF COMMISSIONERS

Signature of Authorized Representative _____

Title _____ Date _____

SPRINGFIELD PUBLIC SCHOOL DISTRICT

Signature of Authorized Representative _____

Title _____ Date _____

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3. Establish the entity/entities that will assist with upholding the requirements of the Salmon-Trout Enhancement Program (STEP) project.

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City of Springfield: The City is a watershed community member and has interest in Cedar Creek watershed protection, stormwater quality, and floodplain management/flood control. The City manages stormwater in the urban tributaries that collect drainage from the southern hills and from the developed lands in the Thurston area. The City has adopted several programmatic approaches to stormwater quality improvement and is a partner in the Metro Waterways planning vision for Cedar Creek urban channel enhancements. Springfield is supportive of the efforts to maintain flows in Cedar Creek and manage the creek for valuable fish habitat, as well as the value that the aesthetic and recreational resource the Cedar Creek watershed provides to the quality of life to the Springfield community. The City supports the flow management effort as a watershed partner, although Springfield has no operational needs to maintain Cedar Creek flow.

McKenzie Watershed Council: The Council serves as the umbrella organization through which all members of the Partnership are participants toward the enhancement and protection of the McKenzie Watershed. The Cedar Creek floodplain represents a key restoration opportunity in the lower watershed as outlined in the Metro Waterways Study and the Council's McKenzie River watershed conservation strategy, which identify Cedar Creek as a priority restoration area. The McKenzie Watershed Council provides the mechanism to leverage the cooperative effort of the Partnership. The Council recognizes this Partnership as a good venue for attracting funding for Cedar Creek enhancement and for building partnership efforts.

Willamalane Park and Recreation District: Willamalane is a land manager and partner in recreational trail and park use in the Cedar Creek watershed. Improved aesthetic, water, and habitat qualities and educational opportunities enhance and complement Willamalane's mission.

Lane County: Lane County has land management interest in maintaining water quality in Cedar Creek and ensuring Cedar Creek residents benefit from the County's participation in the FEMA Community Rating System for flood resilience. Lane County recognizes the McKenzie Watershed Council as the appropriate coordinating entity for water improvement programs in the Cedar Creek area.

Springfield Public School District: The school district's interest in Cedar Creek is as riparian property owner and watershed educator. Thurston Middle School grounds are adjacent to South Cedar Creek and students from Thurston High School have been collecting water quality data from eight sites on the creek for ten years. Students from both the high school and middle school have been involved in riparian restoration improvements along the creek.

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D. ROLES & RESPONSIBILITIES OF PARTIES

The Parties acknowledge the following roles and responsibilities in implementing this MOU. No party has an obligation to contribute funds. However, the parties will provide in-kind donations and tracking of project staff time, as appropriate, to aid grant funding and project efforts.

Cedar Creek Irrigation and Flood Control Association:

- Control and operate diversion gates
- Provide routine operating maintenance
- Assist with landowner outreach
- Tasks as may be determined appropriate in the discretion of the Association

Springfield Utility Board:

- Assist with permitting process related to operation of the headgates
- Assist with water quality monitoring and stream flow measurements
- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Tasks as may be determined appropriate in the discretion of the Board

Eugene Water & Electric Board:

- Support restoration efforts and outreach to landowners
- Assist with water quality monitoring and stream flow measurements
- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Tasks as may be determined appropriate in the discretion of the Board

City of Springfield:

- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Continue programmatic approaches to water quality enhancement in urban tributaries to Cedar Creek
- Provide meeting space as appropriate
- Tasks as may be determined appropriate in the discretion of the City

McKenzie Watershed Council:

- Foster collaborations and partnerships to support restoration projects in the Cedar Creek watershed
- Apply for and support applications for grants and project development (including STEP project)
- Fiscal management of grant-funded projects awarded to the Council
- Project management of Council-led riparian and aquatic enhancement efforts
- Help coordinate outreach to landowners
- Update the Lane County Board of Commissioners on Cedar Creek project activity
- Tasks as may be determined appropriate in the discretion of the Council

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Willamalane Park & Recreation District:

- Support restoration efforts
- Assist in the development of grant/funding opportunities to enhance water quality in Cedar Creek
- Provide meeting space as appropriate
- Tasks as may be determined appropriate in the discretion of the District

Lane County:

- Assist with outreach to landowners
- Regulation of land development on property in the Cedar Creek area that is outside the city of Springfield
- Assurance of continuation in the FEMA Community Rating System for landowners in Cedar Creek
- Tasks as may be determined appropriate in the discretion of the Board of Commissioners

Springfield Public School District:

- Continue Water Quality Monitoring program from eight sites along Cedar Creek
- Share data with participating parties through written reports and presentations at watershed council meetings
- Middle and high school students will participate in riparian restoration projects
- Tasks as may be determined appropriate in the discretion of the District

E. AREAS OF AGREEMENT

The Parties agree to cooperate regarding their mutual interests and benefits related to maintaining the stream flows in Cedar Creek necessary to support functional fish habitat and enhancing the water quality and riparian function of Cedar Creek in the following ways:

- Providing meeting space and recording minutes
- Receiving correspondence and disseminating it to the Partnership
- Providing support for monitoring and project management via the McKenzie Watershed Council
- Providing support for cooperative management of a Cedar Creek stream gauge
- Compiling and sharing monitoring data related to individual projects and goals
- Maintaining open lines of communication among the Partnership regarding individual projects and efforts that are related to or impact Cedar Creek flows, water quality or habitat
- Cooperating on mutual restoration or water quality management projects
- Cooperating and providing support for other mutually agreed upon similar activities
- Finding a solution to long term flow management in Cedar Creek

The Parties, upon mutual agreement, may decide to purchase goods and/or contract for mutual beneficial services (a project) for the benefit of the group. Any such purchase or contract may be

Cedar Creek Partnership
Memorandum of Understanding

sought through mutual consent of all Parties. Funding of any such project will be determined by the Parties prior to any promise to purchase or commencement of any form of contract.

F. CHANGES TO THE AGREEMENT

Amendments or additional appendices may be developed and implemented by mutual written agreement of the signatories at any time without renegotiating the entire MOU. A party may also terminate its participation in this agreement after providing 30 days written notice to the other parties. New parties may join the Partnership with unanimous consent of the parties to the MOU by agreeing to the provisions in this MOU and adding their appropriate signatures to this document.

G. EFFECTIVE DATE OF AGREEMENT

This Agreement is effective from the date of last signature and remains in effect unless modified or revoked by all parties. Any party may choose to terminate its participation in the agreement with 30-days written notification to the remaining parties of the Partnership.

H. ORGANIZATIONAL STRUCTURE

Each Partner shall designate at least one contact to serve as liaison and representative to its organization. These individuals shall provide input to the Partnership on this initiative. The Partnership meets as needed to conduct business in a participating group setting. All ideas are encouraged and welcome. Appropriate projects, work group formations, and courses of action are determined by a consensus of the members.

The McKenzie Watershed Council representative shall organize meetings and be the default chair of meetings if no other chair or meeting lead is designated by mutual consent of the Parties.

I. INDEMNIFICATION AND WAIVER OF SUBROGATION

Indemnification and Hold Harmless. Each of the parties agrees to defend, indemnify, and hold the other harmless from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses, resulting from or arising out of any negligent performance or failure to perform on the part of the indemnifying party, its officers, employees or agents. The defense, indemnity, and hold harmless obligations of the Eugene Water & Electric Board, Springfield Utility Board, Lane County, Springfield School District 19, Willamalane Park and Recreation District, and the City of Springfield are subject to the limitations of Oregon law including but not limited to the Oregon Governmental Tort Claims Act, ORS 30.260 et seq. and any applicable limitations of the Oregon Constitution.

**Cedar Creek Partnership
Memorandum of Understanding**

J. AUTHORIZING PARTIES

CEDAR CREEK IRRIGATION AND FLOOD CONTROL ASSOCIATION

Signature of Authorized Representative _____

Title _____ Date _____

CITY OF SPRINGFIELD

Signature of City Manager _____ Date _____

EUGENE WATER & ELECTRIC BOARD

Signature of Authorized Representative _____

Title _____ Date _____

SPRINGFIELD UTILITY BOARD

Signature of Authorized Representative _____

Title _____ Date _____

MCKENZIE WATERSHED COUNCIL

Signature of Authorized Representative _____

Title _____ Date _____

WILLAMALANE PARK AND RECREATION DISTRICT

Signature of Board President _____ Date _____

Signature of Superintendent _____ Date _____

LANE COUNTY BOARD OF COMMISSIONERS

Signature of Authorized Representative _____

Title _____ Date _____

SPRINGFIELD PUBLIC SCHOOL DISTRICT

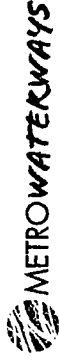
Signature of Authorized Representative _____

Title _____ Date _____

Cedar Creek

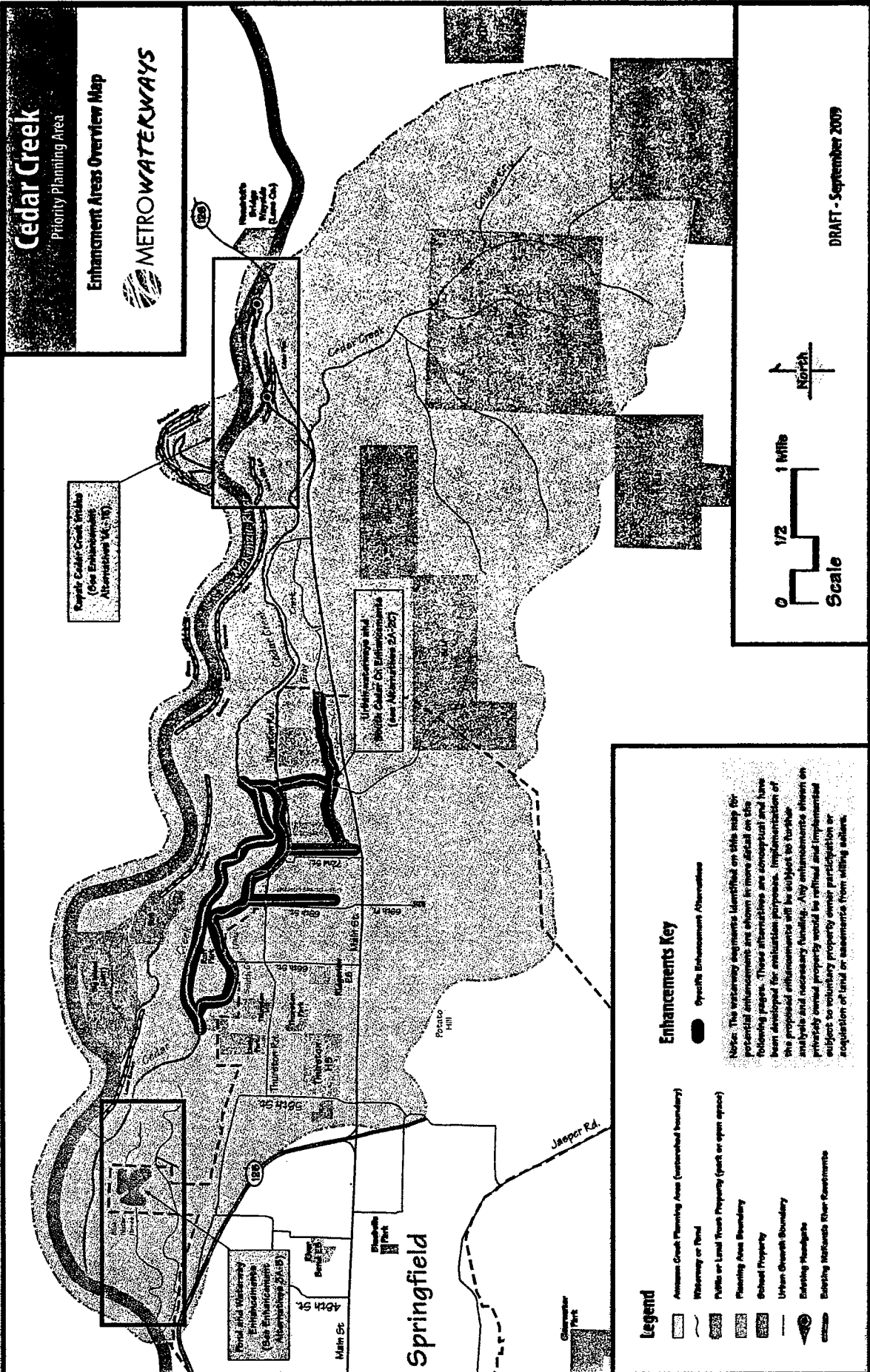
Priority Planning Area

Enhancement Areas Overview Map



Upper Cedar Creek Watershed
(See Enhancement Alternatives V.C. 15)

Upper Cedar Creek Watershed
(See Enhancement Alternatives V.C. 15)



DRAFT - September 2009

Enhancements Key

- Potential Enhancement Alternatives
 - Specific Enhancement Alternatives
- Legend**
- Arroyo Creek Planning Area (contour-based boundary)
 - Waterway or Road
 - Public or Land Trust Property (park or open space)
 - Planning Area Boundary
 - School Property
 - Urban Growth Boundary
 - Existing Floodplains
 - Existing Wetlands River Confluents

Notice: The necessary requirements identified on this map for potential enhancements are shown in more detail on the following pages. These alternatives are conceptual and have been developed for evaluation purposes. Implementation of the proposed enhancements will be subject to further analysis and necessary funding. Any enhancements shown on this map are preliminary and subject to change. Any implementation of these enhancements is subject to voluntary property owner participation or acquisition of land or easements from willing sellers.

Cedar Creek Planning Area Key Observations

Draft, February 2, 2006

The following are the key observations that have been drawn from the preliminary draft of the *Metro Waterways Study Without-Project Condition Report* (February 2006) and are meant to be a summary of the most important points from this report. This list will be updated as additional information becomes available and the *Without-Project Condition Report* is updated. The key observations are sorted by the following topic areas: physical conditions; land use and population; biological resources; water resources; and parks, open space, and recreation.

Physical Conditions

- The waterways of the Cedar Creek Planning Area can be divided into three major categories based on similar physical characteristics. These include:
 - Cedar Creek Main Channel (including the North and South branches);
 - Headwater streams; and
 - Channels associated with the City's stormwater drainage system (69th Street Channel, 72nd Street Channel, and lower Gray and Gay Creeks).
- The soil permeability in the upper reaches of Cedar Creek is generally slow to moderately slow and the soil permeability in the lower reaches (valley floor) is moderately rapid.
- The City's storm system will continue to outfall into South Cedar Creek.
- The current character of lower Cedar Creek is highly dependent on supplemental flows from the McKenzie River, particularly in the summer. These flow augmentations are dependent upon authorized water rights.
- Springfield will continue to maintain the City storm system within the City limits, but cannot legally perform work on waterways that lie outside of the City limits.
- Existing floodplain mapping shows that most of the area between McKenzie River and Cedar Creek lies within the 100-year floodplain.
- The largest flood threat to Cedar Creek is associated with the McKenzie River. During the 1996 flood event, the Cedar Creek channel became a floodway of the McKenzie River
- The McKenzie River has experienced significant channel relocations in the past thirty years and since the 1996 flood event, the McKenzie River near Cedar Creek has shown channel migration that resulted in significant channel relocation.
- Between 1947 and 1970, a number of bank protection structures (levees and revetments) were constructed along the McKenzie River in the reach that parallels Cedar Creek. Erosion has destroyed or damaged several of these structures in recent years.

Land Use and Population

- The Cedar Creek planning area can be separated into three generally distinctive areas of similar size based on predominant land uses:
 - The largely undeveloped headwaters of Cedar Creek and its tributaries. This area lies primarily outside of the current UGB, contains relatively steep slopes, and is predominantly used for timber production on a mix of BLM and privately owned lands, with some widely scattered residential uses present.

- The highly urbanized portion of the basin contained within the UGB. This area is dominated by low density residential uses with smaller quantities of commercial, school, and park uses, but also contains a significant quantity of undeveloped land along the southern edge of the UGB at the higher elevations.
 - The expanse of relatively flat agricultural lands to the north and east of the UGB through which the main channel of Cedar Creek flows.
- 75 percent (7,123 acres) of the total Cedar Creek planning area is outside of the existing UGB.
- Under the land use projection, approximately 1,400 acres (15 percent of total planning area) will convert from undeveloped land to a developed use at the projected build-out.
- The bulk of the projected new development in the Cedar Creek planning area will be in the area south of Main Street (Highway 126) and in the higher elevations along the east and south edge of the UGB. The new development in these areas will be primarily residential.
- Approximately 26 percent of the land cover within the UGB is impervious surface, while impervious surface covers only about six percent of the area outside of the UGB.
- At projected build-out, the total impervious surface area within the UGB is expected to increase by approximately 336 acres, bringing the total area in impervious surface to about 40 percent (up from 26 percent). Actual impervious area may be slightly lower than projected due to the steep slopes along the southern edge of the UGB.
- The most notable increases in impervious surface cover will occur in the undeveloped areas along the eastern and southern edge of the UGB as residential uses replace the current farm and forest uses.
- Only a small increase (approximately 11 acres) of impervious surface area is projected for the lands outside of the UGB. This could change however with future UGB expansions.
- The Cedar Creek planning area has a significantly higher level of owner occupied households (76.6 percent) than either Lane County or the State.
- Of the 13 census block groups contained within the Cedar Creek planning area, eight had a median household income that exceeded both the Lane County and State median incomes.
- More households were occupied by families (75 percent) in the Cedar Creek planning area than either Lane County or the State.

Biological Resources

- *Ownership:* Lack of contiguous ownership (public or private) or easements along waterways throughout the planning area is a significant constraint for implementing effective management or enhancement efforts.
- *Connectivity/Fragmentation:* Even though there has been some impact to the overall landscape in the form of habitat conversion to urban and agricultural uses, the drainage system remains in relatively good condition with little fragmentation. This provides good habitat for plant and wildlife migration from the upper headwaters area to the Cedar Creek/McKenzie River floodplain below.
- *Connectivity/Fragmentation:* Although reduced in total area from historic conditions, existing riparian-forest habitats are present, and in relatively healthy condition, along both Cedar Creek and the McKenzie River.
- *Connectivity/Fragmentation:* Riparian habitat has been significantly impacted in headwater streams due to timber harvest, and along the “Street Channels” (i.e. 69th, 72nd, 75th Streets)

due to past urban stormwater practices. Capacity for improving riparian condition in these areas is very high.

- *Aquatic Species:* McKenzie River is a rich resource of aquatic life and in particular Chinook salmon, bull trout, and Western pond turtle. Historically, Cedar Creek was thought to have spawning populations of salmon; currently, there are no salmon populations present but efforts are underway to reintroduce them into the Cedar Creek system.
- *Invertebrates:* Populations in the planning area include both terrestrial and aquatic species, which require various types of habitat to thrive.
- *Natural Resources Assessment Results – Overall Condition:* Nine of the planning area's 12 major waterway segments were evaluated for existing natural resources condition. These results indicate there is significant capacity for enhancing and improving natural resources conditions in all waterway segments.
- *Soils and Bed Material:* Bed material throughout the priority planning area is dominated by clay based soil types which remains suspended in the water column longer when disturbed. Thus, water quality is more easily degraded in clay dominated systems resulting in degraded habitat conditions for aquatic organisms.
- *Projected Condition:* Existing acres related to open water, riparian, and wetland habitats are projected to decrease from 2,269 acres to 2,038 acres at time of build-out for the planning area.

Water Resources

Existing Surface and Groundwater Resource Issues

- Only four miles (10 percent) of the total 39.5 miles in this priority planning area are within Springfield's UGB which presents management challenges for coordinating and implementing effective water resource management strategies.
- Of the 39.5 miles of total waterways, only 13.5 miles (35 percent) have locally adopted measures designed to protect the physical, chemical, and biological resources of these waterways.
- *Impaired Waterways:* Six of the 12 major waterway corridors in the planning area are on the State's 303(d) list as not meeting water quality standards, representing approximately 18.5 miles of waterways length in the planning area. The remaining six waterways, represent about 21 miles of the total length within the priority planning area, have yet to be evaluated, but many may have similar issues to the six that did not meet the standards.
- *Water Quality – Beneficial Uses:* The degraded water quality conditions affect the following beneficial uses: *Drinking Water, Fish & Aquatic Life, Water Contact Recreation, Fishing, and Salmonid rearing and spawning.*
- *Water Quality:* "Pollutants of Concern" within the priority planning area include: *bacteria/fecal coliform/e-coli, dissolved oxygen, and temperature.* Each of these pollutants can be reduced through a variety of measures including on-ground projects. In addition, other pollutants of concern include dissolved organics (pesticides) and mercury. Specific water quality problem areas include the 69th Street stormwater channel for bacteria, nutrients, and pesticides.
- Cedar Creek provides a number of critical functions in this area, including: fish habitat; mitigating stormwater runoff; providing irrigation to agricultural fields; and providing drinking water via groundwater-surface water interconnection with SUB's Thurston Well Field.
- Water is currently diverted from the McKenzie River to supplement flows in Cedar Creek and allow the creek to meet the many demands on its water. However, the current water right to

divert this water is not sufficient to meet the needs. A limited permit from Oregon Water Resources Department was issued in June 2004 to maintain current diversion rates in hopes that a permanent solution can be found before the limited permit expires in May 2009.

- One known groundwater impact area involves the pentachlorophenol (PCP) plume emanating from the Weyerhaeuser Container Board Plant moving downgradient toward the SUB/RWD well field. PCP has not been detected in these municipal wells to date. However, low levels of PCP have been found in water samples collected from adjoining stormwater ditches during storm runoff events (i.e., 52nd Street and 42nd Street stormwater channels).
- East Springfield's urban stormwater drains into the South Fork of Cedar Creek, which provides groundwater for the SUB's municipal wells, and many private wells.
- The McKenzie River is the primary water supply source for all of Eugene's drinking water; all of the waterways within this planning area discharge into the McKenzie River prior to EWEB's water intake and treatment plant at Hayden Bridge.
- In general, headwater streams were rated consistently higher than the waterways in the valley bottom in the channel assessment conducted in 2005. The poorest rated waterways were the *street channels* that serve a primary function of collecting and distributing urban runoff.

Projected Surface and Groundwater Resource Issues

- Where protection measures have been adopted for specific water resources, the risk of major impact (such as piping of open waterways) is relatively low.
- With new development, water quality function is likely to remain *fair* given the current and potential water quality programming of the City, SUB, and EWEB.
- Based on current and projected trends, water quality function for the major waterway corridors will likely remain in their current condition: *poor-to-fair*.

Parks, Open Space, and Recreation

- The Cedar Creek planning area contains a total of approximately 575 acres of land in public or land trust ownership (6.1 percent of the total planning area).
- Both the *Rivers to Ridges – Metropolitan Parks and Open Space Study* (June 2003) and the *Willamalane Park and Recreation Comprehensive Plan* (2004) provide general guidance for the development of the future park and open space system.
- The *Willamalane Park and Recreation Comprehensive Plan* recommends exploring the feasibility of trail connections along the Thurston Hills ridge in conjunction with the planned natural area park.
- The *Rivers to Ridges* vision map identifies the bottomland portion of Cedar Creek and the McKenzie River both as *blueways*. By the *Rivers to Ridges* definition, a *blueway* is a key water based connection where targeted enhancement may occur. The vision map also defines a *greenway* along the Thurston hills ridge top between Potato Hill and the McKenzie River.
- Based on the Central Lane Metropolitan Planning Organization's *Regional Transportation Plan* (2004), no multi-use paths are currently planned within the Cedar Creek planning area.
- Four schools are currently located in the planning area including Thurston High School, Thurston Middle School, Ridgeview Elementary School, and Thurston Elementary School.

About the Salmon and Trout Enhancement Program (STEP)

Recognizing that volunteers could play an important role in the restoration of native stocks of salmon and trout, the Oregon Legislature created the Oregon Department of Fish and Wildlife's Salmon and Trout Enhancement Program in 1981.

Since that time thousands of volunteers have assisted Oregon's fisheries through their involvement in STEP. They have donated money, materials, equipment, and countless hours of time and labor. STEP volunteers have completed stream habitat restoration work, conducted surveys, helped with education projects, and hatched and reared several million salmon and trout eggs—all because they care about fish and fish habitat.

STEP's goals include:

- Rehabilitate and improve natural habitat and native fish stocks.
- Insure that harvest does not exceed fish population's reproductive capability.
- Provide for citizen volunteer participation in achieving the Oregon Department of Fish and Wildlife's fish management objectives.
- Support public education programs.

The Salmon and Trout Advisory Committee (STAC) made up of 13 Oregon citizens are appointed by the governor to provide recommendations concerning the implementation of salmon and trout enhancement projects. STAC members are appointed to represent the various districts throughout Oregon.

In addition to the advisory committee, 11 Oregon Department of Fish and wildlife STEP Biologists work closely with the numerous STEP affiliated Oregon fishing organizations, providing technical expertise as well as organizing and overseeing the efforts of these dedicated volunteers.

What can a STEP volunteer do?

STEP is a growing program and Oregonians are eager to contribute time, muscle, money, and perseverance. The combined effort of all volunteers has made an important and measurable impact toward conservation of Oregon's valuable fish resources. Volunteers come away with a better understanding of fish and the systems upon which they depend. They achieve a strong sense of personal accomplishment through their hard work.

Interested citizens can help out in a variety of ways, from data collection and management to habitat restoration or education. Volunteer projects and opportunities are defined by the diversity of fish resource management needs found throughout Oregon.

Each of Oregon's watersheds has its own fish management priorities. Local biologists determine what must be done and are always on the lookout for ways volunteers can help.

Many fish projects simply could not happen without volunteers. Volunteers provide the extra effort needed to get the job done.

STEP Districts

North Coast STEP - The North Coast STEP district includes all of the coastal basins extending from Neskowin Creek (Cascade Head) north to the Columbia River, and the lower Columbia River tributaries from the mouth up to Plympton Creek (Westport). Major stream basins include the Klaskanine, Youngs, Lewis and Clark, Necanicum, Nehalem, Kilchis, Wilson, Trask, Tillamook and Nestucca Rivers.

Mid-Coast STEP - The Mid-Coast STEP district includes all of the central Oregon Coast basins from Salmon River south to Siltcoos and Tahkenitch Lakes near Reedsport. Major stream basins include the Salmon, Siletz, Yaquina, Alsea and Siuslaw Rivers.

Umpqua STEP - The Umpqua STEP district covers the entire Umpqua Basin and extends from Diamond Lake in the Cascades west to the coast at Reedsport. Major stream basins include Cow and Calapooya Creek, and the North Fork, South Fork and mainstem Umpqua River.

Tenmile, Coos and Coquille STEP - The Tenmile, Coos and Coquille STEP district covers the Oregon Coast basins from the Eel/Tenmile Lake area south to Bandon. Major stream basins include the Tenmile Lake area, and the Millicoma, Coos and Coquille Rivers.

Lower Rogue STEP - The Lower Rogue STEP district covers the southern Oregon Coast from Four Mile Creek near Bandon south to the California boarder. Major stream basins include the Sixes, Elk, Pistol and Chetco Rivers, the lower Illinois River and the lower mainstem of the Rogue River from the mouth upstream to Mule Creek.

Upper Rogue STEP - The Upper Rogue STEP district covers all waters in the Rogue Basin upstream of the mainstem tributary of Mule Creek to the headwaters near Crater Lake. Major stream basins include the upper Illinois, Applegate and Rogue Rivers.

Lower Willamette STEP - The Lower Willamette STEP district covers the lower Willamette basin including the Portland Metropolitan area. Major stream basins include the Clatskanie, Tualatin, Yamhill, Molalla/Pudding, Clackamas, Sandy and lower Willamette Rivers.

Mid-Willamette STEP - The Mid-Willamette STEP district covers the mid Willamette basin from Eugene north to Salem. Major stream basins include Rickreall Creek, and the North Santiam, South Santiam, Calapooya, Luckiamute, Marys, Long Tom and mainstem Willamette Rivers.

Upper Willamette STEP - The Upper Willamette STEP district covers the headwaters of the Willamette River including the McKenzie, Middle Fork Willamette and Coast Fork Willamette Rivers.

Eastern Oregon STEP - The Eastern Oregon STEP district covers the entire state east of the Cascades and includes 18 counties with nearly 67,000 square miles. Major stream basins include the Deschutes, Klamath, Chewaucan, Silvies, Donner and Blitzen, Malheur, Owyhee, John Day, Umatilla, Grande Ronde and Powder Rivers