

MITIGATION BANK

INSTRUMENT

FOR

MARYS RIVER MITIGATION

BANK

Bank Sponsor:

**Oregon Wetlands LLC
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**January 9, 2020
Revised: May 13, 2020**

**MITIGATION BANK INSTRUMENT
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MARYS RIVER MITIGATION BANK**

This Mitigation Bank Instrument (MBI), which describes the establishment, use, operation, maintenance and long-term management of the Marys River Mitigation Bank (herein after, Bank) is made and entered into by and among *Oregon Wetlands LLC* (Sponsor), the U.S. Army Corps of Engineers, Portland District (Corps, USACE), and the Oregon Department of State Lands (DSL).

This MBI, including the following exhibits, constitutes the entire MBI:

- "Exhibit A", Property Legal Description and Map
- "Exhibit B", Property Assessment and Warranty, Preliminary Title Report
- "Exhibit C", Mitigation Plan with Figures
- "Exhibit D", Anticipated Credits and Credit Release Schedule
- "Exhibit E", Service Area Map and Description
- "Exhibit F", Property Protection Instrument
- "Exhibit G", Sample Credit Receipt
- "Exhibit H", Sample Credit Ledger
- "Exhibit I", Definitions and References
- "Exhibit J", Financial Assurances and Release Schedule
- "Exhibit K", Draft Grading Plan
- "Exhibit L", Long-Term Management Plan
- "Exhibit M", Maps and Figures
 - Figure 1: Location Map
 - Figure 2A: Existing Conditions
 - Figure 2B: Cowardin Classes
 - Figure 2C: HGM Classes
 - Figure 3: Hydrology Source Map
 - Figure 4: Priority Conservation Areas
 - Figure 5: 2018 Aerial Map
 - Figure 6: Wetland Delineation Map
 - Figure 7: Aerial Comparison Map
 - Figure 8: Mitigation Credit Map
 - Figure 9: Planting Plan Map
 - Figure 10: Photo Monitoring Points
 - Figure 11: Vegetation Monitoring Points
 - Figure 12: Service Area Map

I. PREAMBLE:

Whereas,

A. **Purpose:** The purpose of this MBI is to set forth the agreement of the Parties regarding the establishment, use, operation, and long-term management of the Bank. The Bank will provide compensatory mitigation for unavoidable impacts to waters of the United States and/or waters of the State that result from activities authorized under Section 404 of the Clean Water Act (33 U.S.C. § 1344), Section 10 of the Rivers and Harbors Act (33 U.S.C. § 403) (Corps' Regulatory Program), Oregon's Removal-Fill Law (Oregon Revised Statutes (ORS) 196.600-196.990 and Oregon Administrative Rules (OAR) 141-085) or to resolve enforcement cases resulting from activities subject to these laws and regulations. Credits may also be used to compensate for impacts to waters of the United States for Corps Civil Works projects.

B. **Goals and Objectives:** The primary goals of the Bank are to create (establish) 47.98 acres, enhance (re-habilitate) 45.70 acres, restore (re-establish) 14.18 acres with 15.24 acres of buffer for a native wetland classified as Hydrogeomorphic (HGM) Flats class and Cowardin Palustrine Emergent (PEM)/Palustrine Scrub-Shrub (PSS)/Palustrine Forested (PFO) class of wetland and/or other aquatic resources, as further described in Exhibit C.

C. **Bank Legal Description and Location:** The Bank is located in Benton County, Township 12 South, Range 5 West, Section 18&19, Tax Lot 1300, Longitude -123.341000°W and Latitude 44.522889°N. The address of the Bank is ~4702 Bellfountain Road, near the City of Philomath, Oregon. The total area of the Bank is 126.64 acres and is further described in **Exhibit A**, the map and legal description of the bank. Said parcels are hereinafter referred to as the "Property."

D. **Property Ownership:** The Sponsor has provided proof of ownership of the Property. A preliminary title report is included in **Exhibit B**, Preliminary Title Report and Property Assessment and Warranty. Any and all encumbrances (such as liens or easements) on the bank property must be disclosed by the Sponsor to the Corps and DSL in **Exhibit B**. Any encumbrances that conflict with the mitigation purposes of the bank shall be subordinated before the first credit release.

E. **Establishment and Use of Credits:** Upon achieving the performance standards described in **Exhibit C**, Mitigation Plan, and in accordance with the mitigation credit ratios and schedule described in **Exhibit D**, Anticipated Credits and Credit Release Schedule, the Corps and DSL (collectively, "Co-chair Agencies") will release credits to be used as mitigation in accordance with all applicable requirements of the Corps' Regulatory Program and Oregon's Removal-Fill Law.

F. **Interagency Review Team:** The Corps and DSL serve as co-chairs of the Interagency Review Team (IRT). The following agencies have agreed to serve on the IRT and advise the Co-chair Agencies in the establishment, use, operation, maintenance, and any adaptive management or remedial actions concerning the mitigation bank:

Environmental Protection Agency; and
National Marine Fisheries Service; and
U.S. Fish and Wildlife Service; and
Oregon Department of Environmental Quality; and

Oregon Department of Fish and Wildlife; and
The Confederated Tribes of Grand Ronde.

G. Disclaimer: This MBI does not in any manner affect the statutory or regulatory authorities, or responsibilities of the signatory parties.

NOW, THEREFORE, the parties hereto agree as to the following:

II. AUTHORITIES

The following laws, regulations, policies, Executive Orders, and agreements apply to the establishment, use, operation and maintenance of the Bank:

A. Federal:

1. Clean Water Act (33 U.S.C. §§ 1251–1387);
2. Rivers and Harbors Act (33 U.S.C. § 403);
3. Fish and Wildlife Coordination Act (16 U.S.C. §§ 661 et seq.);
4. Endangered Species Act (16 U.S.C. §§ 1531–1544);
5. Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801–1883)
6. National Historic Preservation Act, as amended (16 U.S.C. § 470);
7. National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321–4347 ("NEPA");
8. Coastal Zone Management Act (16 U.S.C. §§ 1451 et seq.);
9. Executive Order 11988 (Protection of Floodplains);
10. Executive Order 11990 (Protection of Wetlands);
11. Executive Order 13112 (Invasive Species);
12. Executive Order 13175, Consultation with Indian Tribes;
13. Regulatory Programs of the Corps of Engineers (33 C.F.R. Parts 320–332);
14. Guidelines for Specification of Disposal Sites for Dredged and Fill Material (40 C.F.R. Part 230);
15. Council on Environmental Quality Procedures for Implementing the National Environmental Policy Act (40 C.F.R. Parts 1500–1508);
16. Regulatory Guidance Letter 08-03 - Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment, and/or Enhancement of Aquatic Resources. National Environmental Policy Act; and
17. Memorandum of Agreement between the Environmental Protection Agency and the Department of the Army concerning the Determination of Mitigation under Clean Water Act, Section 404 (b)(1) Guidelines (February 6, 1990).

B. State of Oregon:

1. Oregon Revised Statutes 196.600-196.990; and
2. Oregon Administrative Rules 141-85.

III. ESTABLISHMENT OF THE BANK

A. Scope of Work: The Sponsor agrees to perform all necessary work, in accordance with the provisions of this MBI, to establish and maintain wetlands and associated upland buffers, as described in the **Exhibit C**, Mitigation Plan, until it is demonstrated to the satisfaction of the co-chair agencies, considering the advice of the IRT, that the project complies with all provisions contained herein.

B. Permits: The Sponsor will obtain all appropriate permits or other authorizations needed to construct and maintain the Bank. This MBI does not fulfill or substitute for such authorization(s).

C. Approval: This MBI is effective upon the latter date of signature by the Sponsor and co-chair agencies.

D. Financial Assurance: A financial assurance (security) instrument will be provided by the Sponsor to the Co-chair Agencies for their approval. The financial assurance instrument is intended to ensure a high level of confidence that the compensatory mitigation project will be successfully completed, in accordance with the terms and conditions of the MBI, including applicable performance standards. A financial assurance may not be required for a Bank Sponsored by a government agency. A description of the financial assurance instrument and the schedule of amounts held and released are provided in **Exhibit J**, Financial Assurances. Depending on which of the Co-Chair Agencies is the beneficiary of the financial assurance instrument, DSL or the Corps, as appropriate, may, in coordination with the other Co-chair agency, make a claim on all or part of a financial assurance instrument for a Sponsor's failure to meet any term or condition under the MBI including, but not limited to, the Bank failing to meet performance standards or the Sponsor failing to provide monitoring reports.

If the Corps determines that a claim on a financial assurance instrument is necessary due to the Sponsor's failure to meet performance standards or comply with the terms of the MBI, and DSL is the beneficiary of the financial assurance instrument, the Corps will submit a request to DSL to make a claim. If DSL denies the Corps' request, the Corps may take any other appropriate action it deems necessary including, but not limited to, suspending credit sales, requiring adaptive management, including a remedial action plan, decreasing available credits, or withdrawing from the MBI (see Termination of or Withdrawal from MBI and Transfer of Credits, Section VII.C.).

E. Real Estate Provisions: The Sponsor has provided a preliminary Title Report in **Exhibit B**. The Sponsor warrants that the title to the Property is free of any encumbrance that could directly or indirectly conflict with the mitigation purpose of the Bank and agrees to defend the Property from any encumbrances that the Corps or DSL determine would be incompatible with the mitigation purposes of the Bank until Bank closure, as provided in the Property Assessment and Warranty, also in **Exhibit B**. The Sponsor shall permanently protect the Property by, at minimum, recording a restrictive covenant in the deed (**Exhibit F**). The site protection instrument must prohibit uses that are not compatible with the mitigation objectives.

The Sponsor shall also record an access easement granting to the Co-chair Agencies the right to access the Bank site for compliance inspections, and if necessary, to implement the mitigation or remediation using the financial assurance instrument, upon prior notice to the landowner. A copy of the recorded restrictive covenant and access easement shall be provided to the Co-chair Agencies prior to the initial release of bank credit.

The Sponsor agrees to notify the Co-chair Agencies in writing sixty (60) days prior to taking or allowing any action that would void or modify the site protection documents or access easement, including transfer of title, or establishment of any other legal claims over the compensatory mitigation site.

Prior to or coincident with Bank closure, additional site protection mechanisms, such as a conservation easement or transfer of title to a conservation entity or government agency, may be required by DSL for purposes of its program. These additional site protection mechanisms may be recorded as supplemental to or superseding the restrictive covenant, provided they are approved by the Co-chair Agencies. Such modifications shall be coordinated with updates to the Long-Term Management Plan (**Exhibit L**) and shall be approved in writing by the Co-chair Agencies. A copy of any additional recorded site protection mechanisms referencing this MBI shall also be provided to the Co-chair Agencies.

F. Reporting: The Sponsor agrees to submit an as-built report containing a survey of the finished grades to the Co-chair Agencies within 90 days following completion of the grading of the mitigation bank. If no grading is required, a brief construction completion report shall be submitted instead. Either report shall describe in detail any substantial deviation from the approved Mitigation Plan.

The Sponsor also agrees to submit annual reports that include data, documentation, and discussion sufficient for the Co-chair Agencies to determine how the compensatory mitigation project is progressing towards meeting its performance standards and its status relative to the stated objectives. Annual monitoring reports shall cover successive one year periods and be submitted to the Co-chair Agencies until Bank closure.

IV. OPERATION OF THE BANK

A. Service Area: The Bank is established to provide mitigation, to compensate for impacts to waters of the United States and/or Waters of the State that occur within a particular service area, that reflects a replacement of aquatic resources by employing an ecologically appropriate landscape scale or watershed approach. This service area shall include portions of hydrologic unit 17090003, within Benton, Lane, Linn, and Polk Counties, as shown on and further described in **Exhibit E**, Service Area Map and Description. Compensatory mitigation for impacts outside of the service area of a bank may be allowed if the Corps and/or the DSL determine, on a case-by-case basis, that the Bank is the best mitigation option.

B. Access: The Sponsor will allow, or otherwise provide for, access to the site by the Co-chair Agencies, other members of the IRT, or their agents or designees at reasonable times as necessary to monitor the Sponsor's compliance with the terms of this MBI. If it becomes

necessary for the Co-chair Agencies to make a claim on the financial assurance instrument to implement adaptive management measures or remedial actions, the Sponsor also will allow access to the Co-chair Agencies, their agents and designees to carry out such activities.

C. Party Responsible for Mitigation Obligation: The Sponsor shall assume legal responsibility for the compensatory mitigation requirements of Corps or DSL permits for which it sells or transfers credits once a Corps or DSL permittee, or a respondent under a permit enforcement action, has secured the appropriate number and resource type of credits from the Sponsor. Sponsor's assumption of responsibility will be formally documented for each transaction in a Credit Receipt provided to the Co-chair Agencies (**Exhibit G**).

D. Number of Credits: The number of credits expected to be generated by this Bank is described in **Exhibit C**, Mitigation Plan, and the credit quantification and release schedule are described in **Exhibit D**, Anticipated Credits and Credit Release Schedule. The actual number of credits will be determined based on the actual wetland acreage and performance standards achieved. The amount to be debited for each impact will be specified in each permit issued by the Corps and/or DSL or as otherwise determined by the Corps and/or DSL.

E. Performance Standards: Credits will be released based on the achievement of performance standards, as described in **Exhibit C**, Mitigation Plan.

V. MAINTENANCE AND MONITORING OF THE BANK

A. Maintenance Provisions: The Sponsor agrees to perform all necessary work to maintain the Bank consistent with **Exhibit C**, Mitigation Plan, including adaptive management or remedial action as may be necessary under an amendment to the MBI. The Sponsor shall continue with such maintenance activities to achieve and sustain performance standards until Bank closure or the Sponsor transfers or assigns the Bank to a successor. Long-term maintenance shall continue to be the responsibility of the Sponsor unless and until a different arrangement is approved under an amended LTMP (**Exhibit L**).

B. Monitoring Provisions: The Sponsor agrees to perform all necessary work to monitor the Bank to demonstrate achievement of the performance standards established in **Exhibit C**, Mitigation Plan. The sponsor will provide copies of recently collected data addressing performance standards for verification during annual IRT site inspections. Monitoring and reporting to demonstrate compliance with performance standards shall continue until all credits are sold or until bank closure.

C. Accounting Procedure: The Sponsor shall submit a signed credit receipt to the Corps and DSL each time credits are sold (**Exhibit G**). In addition, the Sponsor shall submit a ledger to the Co-chair Agencies with each annual monitoring report, per **Exhibit H**, Sample Credit Ledger, until the last credit is sold. The credit ledger shall document all transactions (releases, withdrawals, refunds and/or other adjustments, and current balance of unsold credits), starting with the first credit release cumulatively through the current reporting period, and show the permitted impacts for each resource type (i.e., stream and/or wetland). Credits shall only be sold by the Sponsor, except for certain re-sale provisions for government entities as specifically authorized by the Director of DSL.

D. Adaptive Management and Remedial Action Plans:

(1) The Sponsor shall provide an Adaptive Management Plan that anticipates potential challenges in constructing and managing the Bank (**Exhibit C, #8**). Analysis of monitoring results, inspections, input from the IRT, or other information may indicate that changes to management or other corrective actions may be needed to optimize Bank performance and ensure the targeted aquatic resource functions are provided. The Sponsor shall consider the risk, uncertainty, and dynamic nature of the Bank project in identifying adaptive management measures to rectify apparent problems. The Sponsor is responsible for implementing adaptive management measures. If the Sponsor is operating in accordance with the approved Mitigation Plan (**Exhibit C**), no special notification or additional Co-chair Agency approval is needed.

(2) If the Bank cannot be constructed in accordance with the Mitigation Plan (**Exhibit C**), the Sponsor must notify the Co-chair Agencies and propose adaptive management measures. A significant modification of the MBI requires approval from the Co-chair Agencies. Examples of significant modifications could include, but are not limited to, major changes affecting site design, hydrologic inputs, or vegetation community types. The Co-chair Agencies reserve the right to determine which modifications are significant.

(3) If monitoring or other information indicates that the Bank is not progressing towards meeting its performance standards as described in the Mitigation Plan, the Sponsor must notify the Co-chair Agencies as soon as possible and identify the adaptive measures that will be implemented. The Co-chair Agencies, in consultation with the IRT as appropriate, will determine the appropriateness of the Sponsor's proposed adaptive management measures.

(4) Sponsor's proposals that significantly deviate from the Mitigation Plan, or Sponsor's failure to propose or implement adaptive management measures, may give cause for the Co-chair Agencies to require a Remedial Action Plan. Examples of significant deviations could include, but are not limited to, major changes affecting site design, hydrologic inputs, or vegetation community types. The Co-chair Agencies reserve the right to determine when a Remedial Action Plan is required. The Remedial Action Plan is subject to Co-Chair approval.

(a) The Remedial Action Plan shall address the deficiencies and include a map of areas to be remediated, tasks or treatments, itemized cost estimates, implementation and monitoring schedule, and any consequent adjustments necessary for the financial assurance account to remain sufficient to ensure completion of both the Remedial Action Plan and the original Mitigation Plan.

(b) The Remedial Action Plan may include site modifications, design changes, revisions to maintenance requirements, performance standards specific to the remediated area, and revised monitoring requirements. The Plan must be designed to ensure that the modified Bank project provides aquatic resource functions comparable to those described in the Mitigation Plan objectives.

(c) The Sponsor is responsible for and shall implement the approved Remedial Action Plan in accordance with the included schedule.

(5) In the event the Sponsor (i) fails to notify the Co-chair Agencies of an adverse impact that would impede the Sponsor from achieving the performance standards in the Mitigation Plan, (ii) provides false information, or (iii) fails to develop and propose a written Remedial Action Plan, the Bank may be subject to suspension or revocation of released mitigation credits, a claim on the financial assurance instruments, termination of the MBI, or other enforcement action as allowed under the regulatory authorities of the Co-chair Agencies.

(6) Regardless of adaptive management or remedial actions attempted, if the Bank fails to achieve performance standards within ten years of the Sponsor completing initial planting, as documented in the annual monitoring report, the Co-chair Agencies may terminate the Bank, unless all parties agree to a written MBI amendment that addresses any changes to agency regulations since that time, standards, credit accounting, and temporal loss.

E. Default: The Sponsor shall be in default if it fails to observe or perform any obligations or responsibilities required of it under this MBI. Implementation (i.e., site preparation) of the Mitigation Plan shall be initiated no later than the first full growing season after the date of the first credit transaction. Upon a determination by the Co-chair Agencies that the Sponsor is in default, the Co-chair Agencies shall notify the Sponsor that the sale or transfer of any credits will be suspended until the default has been cured. The notification from the Co-chair Agencies shall cite the MBI obligation or responsibility at issue and identify a range of potential remedies. Upon notice of such suspension, the Sponsor agrees to immediately cease all credit sales until the Co-chair Agencies inform the Sponsor that sales or transfers may be resumed. Should the Sponsor remain in default, the Co-chair Agencies, in consultation with the IRT as needed, may take appropriate measures including, but not limited to, reducing potential credits, making a claim upon financial assurance instruments, or terminating the MBI. This section shall not be construed to modify or limit any specific right, remedy, or procedure in any section of this MBI or any remedy available under applicable federal and/or state law.

F. Long-Term Management Plan: The Sponsor has prepared a Long-Term Management Plan (LTMP) which is included at **Exhibit L**. The LTMP must describe how the Bank will be managed to sustain the gains of aquatic resources after performance standards have been achieved, including a description of the site protection, the long-term funding mechanisms, and the parties responsible for managing the long-term funding mechanism and implementing the LTMP.

The Sponsor will be responsible for implementing all components of the LTMP unless and until the Sponsor transfers responsibility for implementing to a LTMP stewardship entity. Any such transfer, and subsequent amendment of the LTMP, must be approved by the Co-chair Agencies. DSL will require this amendment as a condition of the last 25% credit release. If the long-term funding mechanism is via an endowment, the endowment will be fully funded two years before the LTMP is implemented.

G. Bank Closure: Upon achievement of the performance standards, the sale of all credits, approval and execution of any updates to the LTMP, and certification by the Sponsor that the Property Warranty and Assessment in **Exhibit B** has not changed, the Co-chair Agencies shall issue a written “bank closure certification” to the Sponsor. The Co-chair Agency which is the

beneficiary of the financial assurance instrument will, following coordination with the other Co-chair Agency, release the financial assurance instrument. After Bank closure, monitoring and reporting of the performance standards will cease. Bank closure ends the establishment period of the Bank and begins the long-term management period.

VI. RESPONSIBILITIES OF CO-CHAIRS AND THE INTERAGENCY REVIEW TEAM

A. Participation in Establishment, Use, and Operation: The IRT members may participate, as necessary, to advise the Co-chair Agencies in the establishment, use, and operation of the Bank and, to the degree practicable, ensure that the compensatory mitigation supports the policies of their respective agencies.

B. Review and Comment: The IRT members will strive to review and provide comments in accordance with timelines specified by the Co-chair Agencies on document reviews, mitigation plans, annual monitoring reports, requests for credit release, and remedial or adaptive management measures, among other documents associated with the Bank. In making decisions related to approval and credit release for the Bank, the Co-chair Agencies shall consider all timely comments.

C. Site Inspections and Recommendations: The Co-chair Agencies will conduct inspections, with participation and advice from the IRT members, as necessary, to verify that the Bank is achieving the performance standards described in the MBI. If the Bank is not meeting performance standards, the Co-chair Agencies, in consultation with the IRT, may direct the Sponsor to implement remedial actions or adaptive management measures per Section V.D

D. Document Review: The Co-chair Agencies shall coordinate as needed to ensure a predictable and timely process for review of documents. Each Co-chair Agency shall strive to respond according to applicable timelines under federal or state law, or within 30 days.

VII. OTHER PROVISIONS

A. Force Majeure:

(1) If any event occurs that is beyond Sponsor's reasonable control and that causes or might cause a delay or other type of failure to achieve performance standards described in this MBI despite Sponsor's reasonable efforts ("Force Majeure"), Sponsor will promptly, upon learning of the event, notify the Co-chair Agencies verbally of the cause of the delay or failure, its anticipated duration, the measures that Sponsor has taken or will take to prevent or minimize the delay or failure, and the timetable by which Sponsor proposes to carry out such measures. Sponsor will confirm in writing this information within 14 working days of the verbal notification. Failure to comply with these notice requirements precludes Sponsor from asserting Force Majeure for the event and for any additional delay or other types of failure to achieve performance standards described by the MBI that is caused by the event.

(2) If Sponsor demonstrates to the Co-chair Agencies' satisfaction that the delay or failure has been or will be caused by Force Majeure, the Co-chair Agencies will jointly extend times for performance of related activities, or jointly approve remedial action or adaptive management,

under this MBI as appropriate. Circumstances or events constituting Force Majeure might include but are not limited to acts of God, unforeseen strikes or work stoppages, fire, explosion, riot, sabotage, or war. Normal inclement weather, increased cost of performance, or changed business or economic circumstances will not be considered Force Majeure.

B. Dispute Resolution:

(1) If Sponsor disagrees with Co-chair Agencies regarding any matter relating to this MBI, Sponsor will promptly notify the Co-chair Agencies in writing of Sponsor's objection. The Co-chair Agencies and Sponsor will then make a good-faith effort to resolve the disagreement within 14 business days of Sponsor's written objection. At the end of the 14-business day period, the Co-chair Agencies will provide Sponsor with a written statement of their position. Upon Sponsor's request, the Co-chair Agencies' management may discuss the disputed matter with Sponsor and provide Sponsor with the Co-chair Agencies' final position in writing as soon as practicable after receipt of Sponsor's request.

(2) If Sponsor refuses or fails to follow Co-chair Agencies' final position, and Co-chair Agencies seek to enforce their final position, the Parties are generally entitled to such rights, remedies, and defenses as are provided by applicable law.

(3) During the pendency of any dispute resolution under this subsection, the time for completion of obligations or specific performance standards affected by such dispute is extended for a period of time not to exceed the actual time taken to resolve the dispute. Obligations or performance standards, in part or in whole, that are not affected by the dispute must be completed in accordance with the applicable schedule described in this MBI. The Co-Chair Agencies retain the discretion to determine whether this dispute resolution process is applicable to any issue in dispute pertaining to default under this MBI. Agencies will determine whether a credit release based on a provision under dispute will be delayed until resolution of the dispute. Remedies upon default applied by the Co-Chair Agencies will remain in effect during the pendency of the dispute resolution period.

C. Termination of or Withdrawal from MBI, and Transfer of Credits:

(1) Events of Termination: This MBI will terminate upon the occurrence of the following:

a. If the initiation of construction as described in the Mitigation Plan (**Exhibit C**), to include planting of vegetation, has not occurred within three (3) years from the signing of this MBI by the Co-chair Agencies, and no credit transaction has occurred, unless the Co-chairs determine that circumstances warrant an extension. Any extensions must be approved by the Co-chair Agencies in writing.

b. After the passage of 14 calendar days following the Co-chair Agencies' written notice of termination to the Sponsor as a remedy upon default, as described in Section 5.E.

(2) Termination by Sponsor: The Sponsor may terminate this MBI at any time prior to the first credit transfer. Termination of the MBI does not alter Sponsor responsibilities for compliance with any Corps or DSL authorization for removal or fill work conducted on the Bank Property.

The Sponsor shall provide at least 14 calendar days' written notice to DSL and the Corps prior to the Sponsor's termination. The notice shall state the effective date of the Sponsor's termination.

(3) Withdrawal by the Corps:

The Corps may withdraw from this MBI at its sole discretion if: (a) DSL denies a Corps request for DSL to make a claim on a financial assurance instrument, as described in Section III.D., or (b) the Corps determines the Bank is not meeting performance standards or the Sponsor is not complying with the terms of the MBI. Should either of these events occur, the Corps will generally endeavor to utilize those appropriate measures listed in Section V.E. (Default) first, prior to withdrawing. The Corps shall provide at least 14 calendar days' written notice to the Sponsor and DSL prior to the Corps' withdrawal. The notice shall state the effective date of the Corps' withdrawal.

The Corps may withdraw from this MBI immediately upon the Corps' written notice to the Sponsor and DSL if federal laws, rules, regulations, or guidelines are modified or interpreted in such a way that the Corps' performance under this MBI is prohibited.

The Corps' withdrawal under this subsection would terminate the MBI for purposes of the Corps' Regulatory Program and bar the recognition of any future credits as mitigation for impacts to waters of the United States authorized through Department of the Army permits. The Corps' rights and obligations under this MBI shall terminate upon the effective date of the Corps' withdrawal, provided that the Corps shall continue coordinating with DSL on credit ledger recordkeeping.

(4) Withdrawal by DSL:

DSL may withdraw from this MBI at its sole discretion if the Corps denies a DSL request for the Corps to make a claim on a financial assurance instrument, as described in Section III.D. DSL shall provide at least 14 days' written notice to the Sponsor and the Corps prior to DSL's withdrawal. The notice shall state the effective date of DSL's withdrawal.

DSL may withdraw from this MBI immediately upon DSL's written notice to the Sponsor and the Corps if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that DSL's performance under this MBI is prohibited.

DSL's withdrawal under this sub-section would terminate the MBI for DSL regulatory purposes and bar the recognition of any future credits as mitigation for impacts to waters of the State authorized through DSL permits. DSL's rights and obligations under this MBI shall terminate upon the effective date of DSL's withdrawal, provided that DSL shall continue coordinating with the Corps on credit ledger recordkeeping.

(5) Surviving Obligations: In the event of termination, or of withdrawal by any party, the Sponsor agrees to perform and fulfill all obligations under this MBI relating to credits that were sold or transferred prior to or at the time of termination or of withdrawal by any party. In the event this MBI is terminated prior to the transfer of all authorized credits, any remaining credits under this MBI shall be extinguished and will no longer be available for transfer.

D. Transfer, Successors, and Assigns

(1) Transfer during Establishment Period:

a) Transfer of Sponsor's Requirements Excluding the LTMP

Any transfer or assignment of any portion of or interest in the Bank shall be subject to the requirement that the transferee or assign assume all the necessary requirements for the Bank as laid out in this MBI, according to the terms of the separate agreement, and the Sponsor remains responsible for any and all requirements of the MBI not properly transferred or assigned.

If the transfer or assignment of any interest, other than the site protection instrument which shall be appropriately recorded then returned to the Co-chair agencies, is to a party other than a successor, the receiving party must accept the rights and obligations transferred to them by signing a written amendment to the MBI detailing the transferred or assigned rights and responsibilities. The Sponsor and the Co-chair Agencies shall also sign the amendment and if appropriate follow DSL and Corps protocols for permit transfer. Transfer or assignment of any portion of or interest in the Bank shall be subject to the requirement that any funds pledged toward the long-term management funding mechanism shall continue to be accrued and expended in a manner consistent with this MBI and the LTMP. Transfer or assignment is also subject to the Co-chair Agencies finding that the financial assurance amount is adequate for the current circumstances and is secured prior to the transfer or assignment of any portion of or interest in the Bank.

b) Transfer of Long-term Management Responsibilities

Prior to Bank closure the Sponsor may choose to transfer long-management responsibilities to another party by proposing an amendment to the LTMP. The proposal must sufficiently describe which responsibilities the Sponsor is transferring the proposed long-term manager is accepting, when the transfer would occur (i.e. before or after bank closure), and the proposed long-term manager's fitness to accept and carryout these responsibilities. If proposed long-term manager is unwilling to sign the amendment to the LTMP, the Co-chair agencies must be provided with documentation showing proof of the proposed long-term manager's acceptance of the proposed responsibilities to be transferred. Any responsibilities not properly transferred to the proposed long-term manager shall remain the responsibility of the Sponsor.

The Co-chair Agencies will review these materials to determine whether the proposal provides a complete replacement of the terms and conditions of the original LTMP and/or if further documentation is required before they approve the transfer. If these criteria are met, the Co-chair Agencies would approve transfer of long-term management responsibility to the proposed long-term manager by executing an amendment to the LTMP according to the terms of the MBI.

(2) Transfer during the Long-Term Management Period:

After Bank closure, the transfer provision of the LTMP shall control the transfer or assignment of rights and responsibilities. Transfer of the site protection instrument recorded on the title (**Exhibit F**), shall require notice to DSL and to the Corps when there are changes in land

ownership or in the identity of a conservation easement holder. The Co-chair Agencies may use this notice as an opportunity to inform the new party of any federal or state regulations or permits that would apply to future removal or fill activities in the waters of the State or waters of the United States within the Bank Property.

E. Specific Language of MBI Shall Be Controlling: The Sponsor and Co-chair Agencies intend the provisions of this MBI and each of the documents incorporated by reference in it to be consistent with each other, and for each document to be binding in accordance with its terms. To the fullest extent possible, these documents shall be interpreted in a manner that avoids or limits any conflict between or among them. However, if and to the extent that specific language in this MBI conflicts with specific language in any document that is incorporated into this MBI by reference, the specific language within the MBI shall control. The captions and headings of this MBI are for convenient reference only and shall not define or limit any of its terms or provisions.

F. Notices: Any notice, demand, approval, request, or other communication permitted or required by this MBI shall be in writing and deemed given when delivered personally, sent by receipt-confirmed facsimile, or sent by recognized overnight delivery service, addressed as set forth below, or five calendar days after deposit in the U.S. mail, postage prepaid, and addressed as set forth below.

Oregon Wetlands LLC
6001 NW Gilmour Lane
Albany Oregon, 97321

U.S. Army Corps of Engineers
CENWP-OD-G Mitigation Program Manager
Eugene Field Office
211 E. Seventh Ave., Suite 105
Eugene, Oregon 97401-2722

Oregon Department of State Lands
775 Summer Street NE, Suite 100
Salem, Oregon 97301-1279

G. Entire MBI: This MBI, and all exhibits, appendices, schedules and agreements referred to in this MBI, constitute the final, complete, and exclusive statement of the terms of the agreement between and among the parties pertaining to the Bank, and supersede all prior and contemporaneous discussions, negotiations, understandings or agreements of the parties. The respective DSL and/or Corps permits for construction of the Bank are incorporated herein by reference, otherwise, no other agreement, statement, or promise made by the parties, or to any employee, officer, or agent of the parties, which is not contained in this MBI or incorporated herein by reference, shall be binding or valid, with respect to the subject matter hereof. No alteration or variation of this instrument shall be valid or binding unless contained in a written amendment, approved by the Co-chair Agencies. Each of the parties acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any of the other parties or anyone acting on behalf of any of the parties unless the same has been embodied herein.

H. Modifications:

Prior to Bank closure, this MBI, including its Exhibits, may be amended or modified only with the written approval of the Sponsor and Co-chair Agencies. In the event the Sponsor determines that modifications must be made in the Mitigation Plan to ensure successful establishment and operation of the Bank, the Sponsor shall submit a written request for such modification to the Co-chair Agencies. The Co-chair Agencies may consult with the IRT regarding amendment or modification of the MBI. The Co-chair Agencies' approval will not be unreasonably withheld or denied.

I. Invalid Provisions: If a court of competent jurisdiction holds any term or provision of this MBI to be invalid or unenforceable, in whole or in part, for any reason or as to any party, the validity and enforceability of the remaining terms and provisions, or portions of them, shall not be affected unless an essential purpose of this MBI would be defeated by loss of the invalid or unenforceable provision or its invalidity or unenforceability as to any party.

J. Counterparts: This MBI may be executed in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute a single executed Instrument.

K. Binding: This MBI shall be immediately, automatically, and irrevocably binding upon the Sponsor and its heirs, successors, assigns and legal representatives upon signing by the Sponsor, the Corps, and DSL.

L. Liability of Co-chair Agencies: The responsibility for financial success and risk to the investment initiated by the Sponsor rests solely with the Sponsor. The Co-chair Agencies that are parties to this MBI administer their respective regulatory programs and make no guarantee of the financial success of mitigation banks, specific individuals, or entities. Accordingly, there is no guarantee of profitability for any individual mitigation bank. Sponsors should not construe this MBI as a guarantee in any way that the Co-chair Agencies will ensure sale of credits from this Bank or that the Co-chair Agencies will forgo other mitigation options that may also serve the public interest. Because the Co-chair Agencies do not control the number of mitigation banks proposed nor the resulting market impacts upon success or failure of individual banks, market studies of the potential and future demand for bank credits are the sole responsibility of the Sponsor. The Sponsor agrees to release, indemnify, protect, and hold harmless the Co-chair Agencies or their agents from any claims arising from their reasonable actions using the financial assurances to implement the mitigation plan or remediate performance failures on the Bank Property.

M. Grant Program Participation: State and Federal funds designated for voluntary restoration projects shall not be used to generate mitigation credits sold for profit.

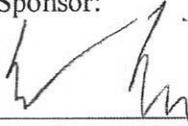
N. Suspension of Credits: The Co-chair Agencies may suspend the sale of credits upon a determination that information contained in this MBI was falsely represented or that the Bank is not performing in accordance with this MBI. Credit suspension also may occur under the terms of Default (see V.E.).

O. Sponsor Identity: If the Bank Sponsor is a business entity, a Certificate of Incumbency has been provided to the Co-chair Agencies for their files prior to approval of this MBI, to certify that the individual signing below is authorized to do so. In addition, if the Sponsor is a closely held Corporation, Limited Partnership, LLC, or Trust, then each shareholder, partner, member, trustee, or other principal shall have provided to the Co-chair Agencies their joint and several personal guarantee(s) securing compliance with the mitigation obligations. The Sponsor agrees to maintain the business entity in active status until all mitigation obligations have been satisfied, at Bank closure. The Sponsor agrees to notify the Co-chair Agencies prior to dissolution, bankruptcy, or changes to the shareholders, partners, members, trustees or other principals of the business, and to promptly provide to the Co-chair Agencies personal guaranty documents for any new shareholders, partners, members, trustees, or other principals.

P. Terminology: Corps approval of this MBI constitutes the regulatory approval required for the Marys River Mitigation Bank to be used to provide compensatory mitigation for Department of the Army permits pursuant to 33 C.F.R. 332.8(a)(1). This MBI is not a contract between the Sponsor or Property Owner and the Corps or any other agency of the federal government. Any dispute arising under this MBI will not give rise to any claim by the Sponsor or Property Owner for monetary damages. This provision is controlling notwithstanding any other provision or statement in the MBI to the contrary.

IN WITNESS WHEREOF, the parties hereto have executed this MBI on the date herein below last signed by the Co-Chair Agencies.

By the Sponsor:



Ray Fiori, Oregon Wetlands LLC

05/13/2020

Date

By the Co-Chair Agencies:

DORF.AARON.LAW^{Digitally signed by}
RENCE.1028790380^{DORF.AARON.LAWRENCE.10287}
⁹⁰³⁸⁰
^{Date: 2020.05.15 15:44:03 -07'00'}

Aaron L. Dorf
Colonel, Corps of Engineers
District Commander

Date

Vicki L. Walker

Vicki L. Walker, Director
Oregon Department of State Lands

5/13/20

Date

Exhibit A
Property Legal Description and Maps

The property legal description is defined on the following 2 pages and shown on Figure 1, Exhibit M.

Exhibit "A"

Real property in the County of Benton, State of Oregon, described as follows:

Beginning at a point on the East line of that parcel described in deed recorded in Book 68, Page 564, Benton County Deed Records which point is 218.94 feet North 0°09' West 93.55 feet West, 767.71 feet South 86°38' West and 614.02 feet South 0°04' East of the Southwest corner of the Charles Bales D.L.C. No. 53, Township 12 South, Range 5 West, Willamette Meridian, Benton County, Oregon; thence South 89°53' West 607.14 feet; thence North 0°07' West 2009.46 feet to the center of the channel of Mary's River, thence along the center of said channel North 39°55'56" West 182.68 feet, North 65°19'47" West 99.69 feet, North 70°59'14" West 138.66 feet, North 78°32'45" West 106.98 feet South 81°46'14" West 54.32 feet, South 4°12'27" West 77.53 feet, South 46°10'42" West 132.40 feet, South 64°47'20" West 201.65 feet, North 76°32'44" West 146.70 feet and North 68°52'59" West 146.28 feet to the West line of said parcel; thence South along the West line of said parcel and the West line of that parcel described in deed recorded in Book 83, Page 565, said Deed Records 63.56 chains; thence East along the South line of said last mentioned parcel 24.65 chains; to the Southeast corner of said last mentioned parcel; thence North 0°04' West 2028.62 feet to the point of beginning.

NOTE: This legal description was created prior to January 1, 2008.

Exhibit B
Preliminary Property Assessment and Warranty
And Preliminary Title Report

The property assessment and warranty information are included in the following 28 pages.

Exhibit B
Preliminary Property Assessment and Warranty

PROPERTY ASSESSMENT and WARRANTY for
Marys River Mitigation Bank

This Property Assessment and Warranty (“Property Assessment”) is made as of this 11th day of November 2019, by [*Oregon Wetlands LLC*] (“Property Owner”), for the benefit of DSL and the Corps, which agencies are jointly referred to in this Property Assessment as the “Signatory Agencies.” Property Owner acknowledges that this Property Assessment and the statements in it may be conclusively relied upon by the Signatory Agencies in entering into the Mitigation Bank Instrument (MBI) for the Marys River Mitigation Bank.

This Property Assessment provides a summary and explanation of each recorded or unrecorded lien or encumbrance on, or interest in, the Bank Property as defined in Exhibit A, including, without limitation, each exception listed in the Preliminary Title Report issued by [*First American Title Insurance Company, 06/12/2019, Order No.:7091-3256682*].

Property Owner covenants, represents and warrants to each of the Signatory Agencies as follows:

1. Property Owner is the sole owner in fee simple of certain real property in Exhibit A (the “Bank Property”), as legally described in the Preliminary Title Report. Property Owner has, and upon the recordation of the Conservation Easement Property Owner shall have, good, marketable and indefeasible fee simple title to the Bank Property subject only to any exceptions approved in writing by the Signatory Agencies in advance of recordation.
2. The Bank Property is available to be burdened by the Conservation Easement for the conservation purposes identified in the Conservation Easement, in accordance with the MBI.
3. The Bank Property includes legal access to and from [*Bellfountain Road*].
4. A true, accurate and complete listing and explanation of each recorded or unrecorded lien or encumbrance on, or possessory or non-possessory interest in, the Bank Property has been provided to the co-chair agencies as an attachment and incorporated by reference in this Property Assessment. Except as disclosed in this attachment, there are no outstanding mortgages, liens, encumbrances or other interests in the Bank Property including, without limitation, mineral interests.

5. Prior to closure of the Bank and/or recordation of the Conservation Easement, Property Owner shall certify to the Signatory Agencies in writing that this Property Assessment remains true, accurate and complete in all respects; no further encumbrances have occurred other than as specified in the MBI.

6. Property Owner has no knowledge or notice of any legal or other restrictions upon the use of the Bank Property for conservation purposes, or affecting its Conservation Values, as described in the Conservation Easement, or any other matters that may adversely affect title to the Bank Property or interfere with the establishment of a mitigation bank thereon.

7. Property Owner has not granted any options or committed or obligated to sell the Bank Property or any portion thereof, except as disclosed in writing to and agreed upon in writing by the Signatory Agencies.

8. The following Attachments are incorporated by reference in this Property Assessment:

- a) Attachment 1 – Preliminary Title Report
- b) Attachment 2 – Deed
- c) Attachment 3 – Roadway easement Philomath
- d) Attachment 4 – Pipeline easement Philomath
- e) Attachment 5 – Shared access easement Brown
- f) Attachment 6 – MOU with city of Philomath

PROPERTY OWNER

Oregon Wetlands LLC

date 11/12/2019



Ray Fiori, Member



First American

First American Title Insurance Company

405 NW 5th Street, Suite A
Corvallis, OR 97330
Phn - (541)757-1344
Fax - (866)712-4647

Order No.: 7091-3256682

June 12, 2019

FOR QUESTIONS REGARDING YOUR CLOSING, PLEASE CONTACT:

SUE CREEL, Escrow Officer/Closer

Phone: (541)926-8808 - Fax: (866)847-2139- Email: screel@firstam.com

First American Title Insurance Company
2405 14th Avenue SE, Suite B, Albany, OR 97322

FOR ALL QUESTIONS REGARDING THIS PRELIMINARY REPORT, PLEASE CONTACT:

David Trivett, Title Officer

Phone: (541)926-8808 - Email: dtrivett@firstam.com

Preliminary Title Report

County Tax Roll Situs Address: Unassigned, , OR

2006 ALTA Owners Standard Coverage	Liability \$ 1,150,000.00	Premium \$ 2,325.00
2006 ALTA Owners Extended Coverage	Liability \$	Premium \$
2006 ALTA Lenders Standard Coverage	Liability \$	Premium \$
2006 ALTA Lenders Extended Coverage	Liability \$	Premium \$
Endorsement 9.10, 22 & 8.1		Premium \$
Govt Service Charge		Cost \$
Other		Cost \$

Proposed Insured Lender: Lender To Be Determined

Proposed Borrower: Oregon Wetlands

We are prepared to issue Title Insurance Policy or Policies of First American Title Insurance Company, a Nebraska Corporation in the form and amount shown above, insuring title to the following described land:

The land referred to in this report is described in Exhibit A attached hereto.

and as of June 03, 2019 at 8:00 a.m., title to the fee simple estate is vested in:

Marvin Gilmour and Cindy Gilmour, as tenants by the entirety

Subject to the exceptions, exclusions, and stipulations which are ordinarily part of such Policy form and the following:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings

This report is for the exclusive use of the parties herein shown and is preliminary to the issuance of a title insurance policy and shall become void unless a policy is issued, and the full premium paid.

by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.

2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

The exceptions to coverage 1-5 inclusive as set forth above will remain on any subsequently issued Standard Coverage Title Insurance Policy.

In order to remove these exceptions to coverage in the issuance of an Extended Coverage Policy the following items are required to be furnished to the Company; additional exceptions to coverage may be added upon review of such information:

- A. Survey or alternative acceptable to the company
- B. Affidavit regarding possession
- C. Proof that there is no new construction or remodeling of any improvement located on the premises. In the event of new construction or remodeling the following is required:
 - i. Satisfactory evidence that no construction liens will be filed; or
 - ii. Adequate security to protect against actual or potential construction liens;
 - iii. Payment of additional premiums as required by the Industry Rate Filing approved by the Insurance Division of the State of Oregon
6. Water rights, claims to water or title to water, whether or not such rights are a matter of public record.
7. The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for Farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed.
8. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the mean high water mark of Mary's River and the ownership of the State of Oregon in that portion lying below the high water mark of Mary's River.
9. Any adverse claim based upon the assertion that some portion of said land has been removed from or brought within the boundaries thereof by an avulsive movement of the Mary's River or has been formed by the process of accretion or reliction or has been created by artificial means or has accreted to such portion so created.
10. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads and highways.

- 11. Easement, including terms and provisions contained therein:
Recording Information: December 27, 1985, M-73267-85, Microfilm Records
In Favor of: City of Philomath, a municipal corporation
For: roadway
- 12. Exclusive Easement for Access, including terms and provisions thereof.
Recorded: November 24, 2015 as Document No. 2015-538713, Microfilm Records
- 13. Easement, including terms and provisions contained therein:
Recording Information: January 25, 2018 as Document No. 2018-566383, Microfilm Records
In Favor of: City of Philomath, Benton County, Oregon, a municipal corporation
For: Permanent pipeline
- 14. Unrecorded leases or periodic tenancies, if any.

- END OF EXCEPTIONS -

NOTE: We find no judgments or United States Internal Revenue liens against Cynthia Gilmour

NOTE: Taxes for the year 2018-2019 PAID IN FULL

Tax Amount:	\$1,317.49
Map No.:	12518-00-01300
Property ID:	166300
Tax Code No.:	0907

NOTE: According to the public record, the following deed(s) affecting the property herein described have been recorded within 24 months of the effective date of this report: NONE

NOTE: We find no outstanding voluntary liens of record affecting subject property. An inquiry should be made concerning the existence of any unrecorded lien or other indebtedness which could give rise to any security interest in the subject property.

**THANK YOU FOR CHOOSING FIRST AMERICAN TITLE!
WE KNOW YOU HAVE A CHOICE!**

RECORDING INFORMATION	
Filing Address:	First American Title Recorder for Benton County 405 NW 5th St, Ste. A P.O. Box 951 Corvallis, OR 97330
Recording Fees:	<ul style="list-style-type: none"> \$ 108.00 per document (most documents) (1st page) \$ 5.00 per additional page \$ 5.00 per document e-recording fee \$ 20.00 non-standard fee \$ 33.00 per foreclosure document (1st page)

cc: Oregon Wetlands

cc: Marvin Gilmour and Cynthia Gilmour
cc: Lender To Be Determined

,



First American Title Insurance Company

SCHEDULE OF EXCLUSIONS FROM COVERAGE

ALTA LOAN POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
 - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing-business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is
 - (a) a fraudulent conveyance or fraudulent transfer, or
 - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

ALTA OWNER'S POLICY (06/17/06)

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection;or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
 - (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not Known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risks 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

SCHEDULE OF STANDARD EXCEPTIONS

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.
5. Any lien or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.

NOTE: A SPECIMEN COPY OF THE POLICY FORM (OR FORMS) WILL BE FURNISHED UPON REQUEST

TI 149 Rev. 7-22-08



First American Title

Privacy Information

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, together with our subsidiaries we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information that you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity. First American has also adopted broader guidelines that govern our use of personal information regardless of its source. First American calls these guidelines its Fair Information Values.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy and First American's Fair Information Values. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

Information Obtained Through Our Web Site

First American Financial Corporation is sensitive to privacy issues on the Internet. We believe it is important you know how we treat the information about you we receive on the Internet.

In general, you can visit First American or its affiliates' Web sites on the World Wide Web without telling us who you are or revealing any information about yourself. Our Web servers collect the domain names, not the e-mail addresses, of visitors. This information is aggregated to measure the number of visits, average time spent on the site, pages viewed and similar information. First American uses this information to measure the use of our site and to develop ideas to improve the content of our site.

There are times, however, when we may need information from you, such as your name and email address. When information is needed, we will use our best efforts to let you know at the time of collection how we will use the personal information. Usually, the personal information we collect is used only by us to respond to your inquiry, process an order or allow you to access specific account/profile information. If you choose to share any personal information with us, we will only use it in accordance with the policies outlined above.

Business Relationships

First American Financial Corporation's site and its affiliates' sites may contain links to other Web sites. While we try to link only to sites that share our high standards and respect for privacy, we are not responsible for the content or the privacy practices employed by other sites.

Cookies

Some of First American's Web sites may make use of "cookie" technology to measure site activity and to customize information to your personal tastes. A cookie is an element of data that a Web site can send to your browser, which may then store the cookie on your hard drive.

FirstAm.com uses stored cookies. The goal of this technology is to better serve you when visiting our site, save you time when you are here and to provide you with a more meaningful and productive Web site experience.

Fair Information Values

Fairness We consider consumer expectations about their privacy in all our businesses. We only offer products and services that assure a favorable balance between consumer benefits and consumer privacy.

Public Record We believe that an open public record creates significant value for society, enhances consumer choice and creates consumer opportunity. We actively support an open public record and emphasize its importance and contribution to our economy.

Use We believe we should behave responsibly when we use information about a consumer in our business. We will obey the laws governing the collection, use and dissemination of data.

Accuracy We will take reasonable steps to help assure the accuracy of the data we collect, use and disseminate. Where possible, we will take reasonable steps to correct inaccurate information. When, as with the public record, we cannot correct inaccurate information, we will take all reasonable steps to assist consumers in identifying the source of the erroneous data so that the consumer can secure the required corrections.

Education We endeavor to educate the users of our products and services, our employees and others in our industry about the importance of consumer privacy. We will instruct our employees on our fair information values and on the responsible collection and use of data. We will encourage others in our industry to collect and use information in a responsible manner.

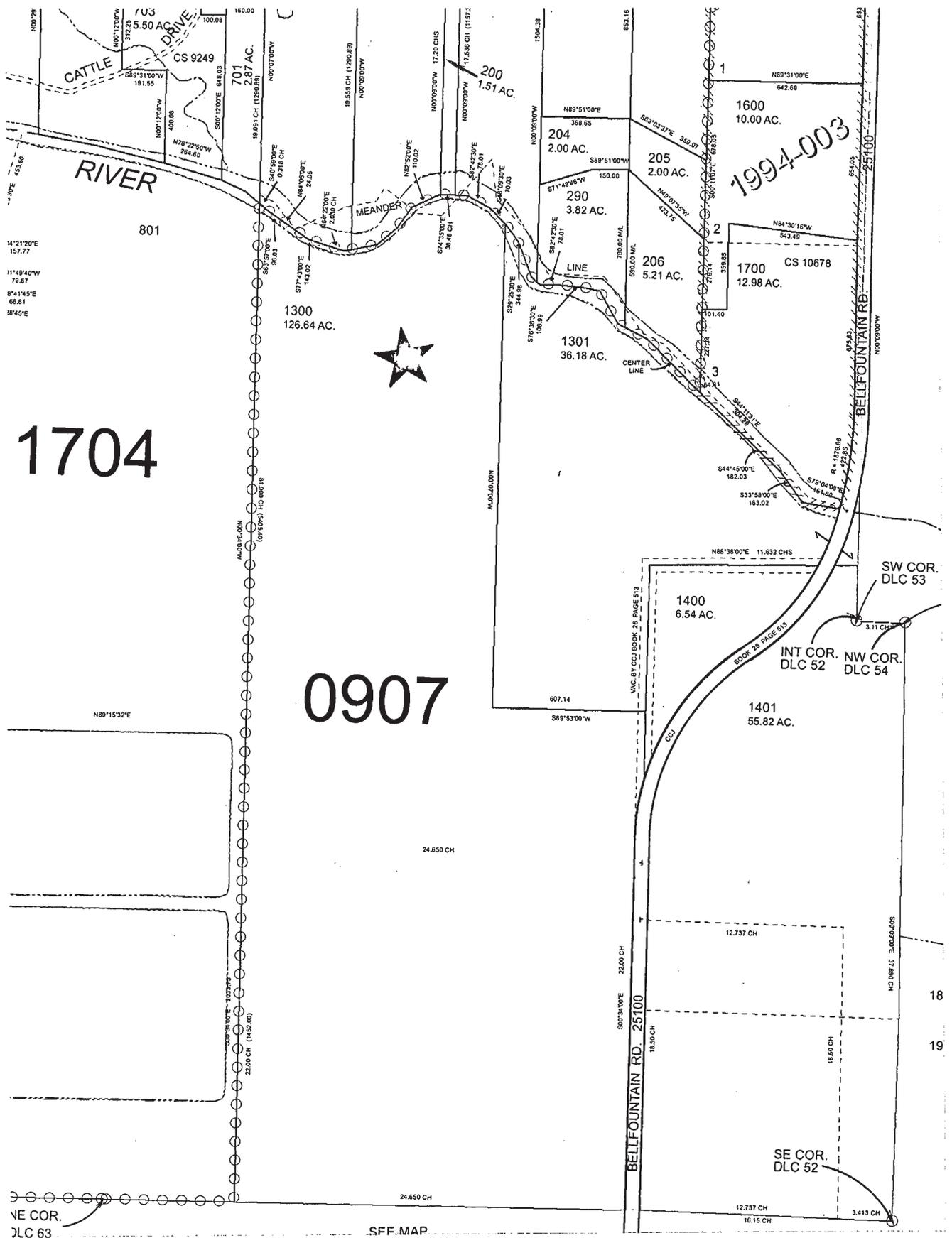
Security We will maintain appropriate facilities and systems to protect against unauthorized access to and corruption of the data we maintain.

Exhibit "A"

Real property in the County of Benton, State of Oregon, described as follows:

Beginning at a point on the East line of that parcel described in deed recorded in Book 68, Page 564, Benton County Deed Records which point is 218.94 feet North 0°09' West 93.55 feet West, 767.71 feet South 86°38' West and 614.02 feet South 0°04' East of the Southwest corner of the Charles Bales D.L.C. No. 53, Township 12 South, Range 5 West, Willamette Meridian, Benton County, Oregon; thence South 89°53' West 607.14 feet; thence North 0°07' West 2009.46 feet to the center of the channel of Mary's River, thence along the center of said channel North 39°55'56" West 182.68 feet, North 65°19'47" West 99.69 feet, North 70°59'14" West 138.66 feet, North 78°32'45" West 106.98 feet South 81°46'14" West 54.32 feet, South 4°12'27" West 77.53 feet, South 46°10'42" West 132.40 feet, South 64°47'20" West 201.65 feet, North 76°32'44" West 146.70 feet and North 68°52'59" West 146.28 feet to the West line of said parcel; thence South along the West line of said parcel and the West line of that parcel described in deed recorded in Book 83, Page 565, said Deed Records 63.56 chains; thence East along the South line of said last mentioned parcel 24.65 chains; to the Southeast corner of said last mentioned parcel; thence North 0°04' West 2028.62 feet to the point of beginning.

NOTE: This legal description was created prior to January 1, 2008.



1704

0907

1994-003



After recording return to:
Oregon Wetlands, llc
6001 NW Gilmour Lane
Albany, OR 97321

Until a change is requested all tax
statements shall be sent to the
following address:
Oregon Wetlands, llc
6001 NW Gilmour Lane
Albany, OR 97321

File No.: 7091-3256682 (SC)
Date: June 08, 2019

THIS SPACE RESERVED FOR RECORDER'S USE

**E-RECORDING
ORIGINAL**

BENTON COUNTY, OREGON	2019-583094
DE-WD	06/26/2019 10:42:53 AM
Str=51 MR	\$118.00
\$15.00 \$11.00 \$10.00 \$62.00 \$20.00	

I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk

STATUTORY WARRANTY DEED

Marvin Gilmour and Cindy Gilmour also known as Cynthia Gilmour as tenants by the entirety, Grantor, conveys and warrants to Oregon Wetlands, llc, an Oregon limited liability company , Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

LEGAL DESCRIPTION: Real property in the County of Benton, State of Oregon, described as follows:

See Attached Exhibit "A"

Subject to:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

The true consideration for this conveyance is **\$1,150,000.00**. (Here comply with requirements of ORS 93.030)

FIRST AMERICAN 3256682

Exhibit "A"

Real property in the County of Benton, State of Oregon, described as follows:

Beginning at a point on the East line of that parcel described in deed recorded in Book 68, Page 564, Benton County Deed Records which point is 218.94 feet North 0°09' West 93.55 feet West, 767.71 feet South 86°38' West and 614.02 feet South 0°04' East of the Southwest corner of the Charles Bales D.L.C. No. 53, Township 12 South, Range 5 West, Willamette Meridian, Benton County, Oregon; thence South 89°53' West 607.14 feet; thence North 0°07' West 2009.46 feet to the center of the channel of Mary's River, thence along the center of said channel North 39°55'56" West 182.68 feet, North 65°19'47" West 99.69 feet, North 70°59'14" West 138.66 feet, North 78°32'45" West 106.98 feet South 81°46'14" West 54.32 feet, South 4°12'27" West 77.53 feet, South 46°10'42" West 132.40 feet, South 64°47'20" West 201.65 feet, North 76°32'44" West 146.70 feet and North 68°52'59" West 146.28 feet to the West line of said parcel; thence South along the West line of said parcel and the West line of that parcel described in deed recorded in Book 83, Page 565, said Deed Records 63.56 chains; thence East along the South line of said last mentioned parcel 24.65 chains; to the Southeast corner of said last mentioned parcel; thence North 0°04' West 2028.62 feet to the point of beginning.

NOTE: This legal description was created prior to January 1, 2008.

M-73267-85

ROADWAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that

for the consideration of ^{Fessler} FOUR THOUSAND FIVE HUNDRED DOLLARS to James L. and Laura A. paid, hereinafter called GRANTOR, the receipt whereof is hereby acknowledged, do forever grant unto the CITY OF PHILOMATH, a municipal corporation, hereinafter called GRANTEE, a permanent right-of-way and easement over and along the full and length of the premises described as follows, to wit:

A 45.00 foot wide Ingress and Egress Easement the South line of which is described as follows:

Beginning at the Southwest corner of that tract of land conveyed to James L. Fessler and Laura A. Fessler by deed recorded in Instrument No. 44465 Microfilm Records for Benton County, Oregon, which point is recorded as being 218.94 feet North 0° 09' West and 93.55 feet West and 767.71 feet South 88° 38' West and 614.02 feet South 00° 04' East and 2028.62 feet South 00° 04' East and 1626.90 feet West of the Southwest corner of the Charles Bates Donation Land Claim No. 53, Township 12 South, Range 5 West of the Willamette Meridian in Benton County, Oregon; thence East along the South line of said Fessler Tract, 1626.90 feet to County Road No. 25100 and being the point of terminus.

TO HAVE AND TO HOLD the above described permanent right-of-way unto said Grantee in accordance with the conditions and covenants as follows:

(1) The Grantee, through its officers, employees and agents, shall have the right to enter upon said lands in such a manner and at such times from this date as may be reasonably necessary for the purpose of constructing, building, laying, patrolling, replacing and maintaining thereon a roadway and related items, including such renewals, repairs, replacements and removals as may be from time to time required. Said right shall be perpetual so long as Grantee shall operate a roadway as herein provided, but should Grantee cease to use said right-of-way for a period of one year, then this easement shall become null and void.

(2) Said roadway shall be constructed in a neat, workmanlike manner with the finished ground surface shaped for drainage and appearance.

(3) Immediately after any construction or repair of said roadway, the surface of the ground shall be restored to its original condition so that the Grantors and their successors in interest shall have the free and unobstructed use thereof, subject to rights of Grantee herein provided.

(4) Grantors and their successors in interest will not be responsible for damage by others to said property.

10-5717
12-5-18 1300

(5) Grantee will indemnify and hold harmless the Grantors, their heirs and assigns from claims for injury to person or property as a result of the negligence of the Grantee, its agents or employees in the construction, operation, or maintenance of said roadway.

WITNESS our Hands and seals

this day of December 3, 1985.

James L. Fessler (SEAL)

Laura A. Fessler (SEAL)

STATE OF OREGON)
County of Benton) SS.

On this 3rd day of December, 1985, before me a Notary Public in and for said County and State, personally appeared

Known to me to be the person whose name James L. and Laura A. Fessler subscribed to the within instrument and acknowledge that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand an official seal on the day and year above written.

Judy A. Roberts
NOTARY PUBLIC FOR OREGON

My Commission Expires: 12/22/87

APPROVED:

By: *[Signature]*
City Administrator

APPROVED AS TO FORM:

City Attorney

STATE OF OREGON } ss. 06-156
County of Benton }

I hereby certify that the w/
instrument was received for reco /

'85 DEC 27 AM 10 01

and assigned N^o 73267 1985

In the Microfilm records of said county

Witness My Hand and Seal of County Affixed

DANIEL G. BURK

DIRECTOR OF RECORDS & ELECTIONS

By *[Signature]* DEPUTY

BENTON COUNTY, OREGON **2018-566383**
 DE-EAS
 Cnt=1 Stn=46 COUNTER1 **01/25/2018 10:58:01 AM**
 \$20.00 \$11.00 \$22.00 \$10.00 \$20.00 **\$83.00**



00355021201805663830040040

James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
 James V. Morales - County Clerk



After recording, return to:
 City of Philomath
 PO Box 400
 Philomath, OR 97370

PERMANENT PIPELINE EASEMENT

The undersigned, Marvin and Cynthia Gilmour, Grantor(s) do hereby grant to City of Philomath, Benton County, Oregon, a municipal corporation, referred to herein as City, a permanent right-of-way and exclusive easement to construct, reconstruct, operate and maintain City pipelines, including an irrigation water distribution pipeline and other City utilities, and all necessary related facilities under and along the following described premises:

All that portion of the tract of land described in the attached Legal Description labeled "Exhibit A" and map labeled "Exhibit B" (incorporated herein by reference).

TO HAVE AND TO HOLD said easement and right-of-way unto said City, its successors and assigns.

The permanent right-of-way or easement shall include the right, privilege, and authority of City to excavate for, and to construct, install, lay, operate, maintain and remove underground pipelines and/or cables with all appurtenances incident thereto or necessary thereafter, for the purpose of supplying public utility service under and across the said premises, together with the right of City to place, install, maintain, inspect, add to the number of and relocate pipelines and/or cables and necessary appurtenances and make excavations therefore from time to time, in, under and through the above described premises within said right-of-way, and to cut and remove from said right-of-way any trees and other obstructions which may endanger the safety or interfere with the use of said pipelines and/or cables or appurtenances attached to or connected therewith; and the right of ingress and egress to and over said above described premises at any and all times for the purpose of patrolling the pipelines and/or cables, or repairing, renewing or adding to the number of pipelines and/or cables and appurtenances and for doing anything necessary, useful or convenient for the enjoyment of the easement hereby granted.

Upon the final acceptance of the installed system by the City, the City shall be responsible for all further restorations of the premises if at any time the City causes the utilities to be repaired or maintained. No trees, permanent structures or improvements, including parallel fences or parallel utilities shall be placed or constructed on the easement by the Grantor or the Grantor's heirs, assigns or successors in interest. The City, upon each and every occasion that the same be repaired, maintained or removed shall restore the premise of the Grantor, by removing all debris and leaving the ground surface in a neat and presentable condition. Grass and topsoil shall be restored as near as

the ground surface in a neat and presentable condition. Grass and topsoil shall be restored as near as possible to as good a condition as the same were prior to any repair or maintenance by the City.

(X) Consideration for this grant consists wholly of value other than money.

The only other persons, firms, or corporations known by Grantor to have any interest in the granted property are: NONE

WITNESS our hands and seals this 21 day of December, 2017.

MARVIN GILMOUR

Marvin Gilmour

CYNTHIA GILMOUR

Cynthia Gilmour

(Printed Name of Grantors)

(Signature of Grantors)

STATE OF OREGON)
County of Linn) ss.

On this 21 day of December, 2017, personally appeared before me, the above named persons, Marvin Gilmour, Cynthia Gilmour, known to me to be the person(s) whose signature is above subscribed, and acknowledged to me that this is a free act and deed, for the uses and purposes therein expressed. In witness whereof, I have hereunto set my hand and affixed by official seal on the day and year last above written.

Michelle A Davis
(Notary Signature)

Notary Public for Oregon
My Commission Expires: November 7, 2021

APPROVED:

[Signature] 1/2/18
City Manager Date

Public Works (Initial) KK



EXHIBIT A

Legal Description For:
Pipeline Easement to
City of Philomath

A 45.00-foot wide strip of land lying in Section 18, Township 12 South, Range 5 West of the Willamette Meridian, Benton County, Oregon, more particularly described as follows:

Beginning at the southwest corner of that property described in that instrument recorded in Document No. 2013-505444, Deed Records for Benton County, Oregon, said point recorded as being 218.94 feet North 0°09' West and 93.55 feet West and 767.71 feet South 88°38' West and 614.02 feet South 00°04' East and 2028.62 feet South 00°04' East and 1626.90 feet West of the southwest corner of the Charles Bates Donation Land Claim No. 53 in said Township; thence East along the south line of said property, 1626.90 feet, more or less, to County Road No. 25100 and being the point of terminus.

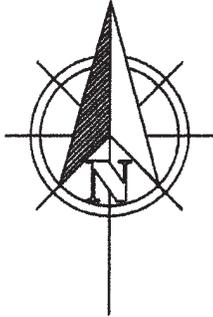
REGISTERED
PROFESSIONAL
LAND SURVEYOR

Gregory L. Wilson

OREGON
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRES: 6-30-18

EXHIBIT B



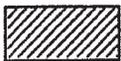
MARVIN & CINDY GILMOUR
 T.L. 125180001300
 DOC. NO. 2013-505444
 DEED RECORDS, BENTON COUNTY, OREGON

BELLFOUNTAIN ROAD

45' WDE PIPELINE EASEMENT

P.O.B.
 SW COR. DOC. NO.
 2013-505444

T.L. 125180000300



PIPELINE EASEMENT



CITY OF PHILOMATH
 PUBLIC WORKS

PIPELINE EASEMENT
 EXHIBIT MAP

OWNER
 NAME/
 ADDRESS

GILMOUR, MARVIN & CINDY
 6001 GILMOUR LN. N.W.
 ALBANY, OR 97321-9392

SECTION 18
 TOWNSHIP 12 SOUTH
 RANGE 5 WEST
 WILLAMETTE MERIDIAN
 BENTON COUNTY, OREGON

DOC. NO. 2013-505444

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 19, 1994
 GREGORY L. WILSON
 2687

EXPIRATION DATE: 6/30/2018

BY G.W.

DATE: 2-23-17

RECORDING COVER SHEET (Please print or type)

This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, and does NOT affect the instrument. ORS 205.234

After recording return to: ORS 205.234(1)(c)

George B. Heilig
Heilig, Misfeldt & Armstrong, LLP
P.O. Box 546
Corvallis, OR 97339

BENTON COUNTY, OREGON **2015-538713**
DE-EAS
Cnt=1 Str=47 COUNTER2 **11/24/2015 10:58:05 AM**
\$35.00 \$11.00 \$22.00 \$10.00 \$20.00 **\$98.00**



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



1. Title(s) of the transaction(s) ORS 205.234(1)(a)

Exclusive Easement for Access

2. Direct party(ies) / grantor(s) Name(s) ORS 205.234(1)(b)

Marvin Gilmour & Cindy Gilmour

3. Indirect party(ies) / grantee(s) Name(s) ORS 205.234(1)(b)

Olline M. Brown Revocable Living Trust

4. True and actual consideration:

ORS 205.234(1) Amount in dollars or other

\$.00

Other: _____

5. Send tax statements to: ORS 205.234(1)(e)

N/A

6. Satisfaction of lien, order, or warrant:

ORS 205.234(1)(f)

FULL

PARTIAL

7. The amount of the monetary obligation imposed by the lien, order, or warrant: ORS 205.234(1)(f)

\$ _____

8. Previously recorded document reference: _____

9. If this instrument is being re-recorded complete the following statement: ORS 205.244(2)

"Rerecorded at the request of _____

to correct _____

previously recorded in book _____ and page _____, or as fee number _____."

EXCLUSIVE EASEMENT FOR ACCESS

This exclusive easement for access is made this 24th day of November, 2015, by and between Marvin Gilmour and Cindy Gilmour, as tenants by the entirety ("Gilmour") and Olline M. Brown Revocable Living Trust, Deline D. Putman, Trustee ("Brown Trust").

WITNESSETH:

A. WHEREAS Gilmour is the owner of the property described in Exhibit A, commonly known as Tax Lot 1300 in Township 12, Range 5, Section 18; and

B. WHEREAS Brown Trust is the owner of property described in Exhibit B, commonly known as Tax Lot 1400 in Township 12, Range 5, Section 18; and

C. WHEREAS, in 1968 Benton County for the purpose of realigning Bellfountain Road vacated a right-of-way adjacent to both the Brown Trust property and the Gilmour property but on which vacated right-of-way is the remnants of the original Bellfountain Road, an improved asphalt road; and

D. WHEREAS, both Brown and Gilmour continue to farm their property and desire to grant to each other and their respective properties the right to pass over the remnants of Bellfountain Road within the old Bellfountain right-of-way adjacent to their properties for the purpose of accessing their properties from the realigned Bellfountain Road.

NOW, THEREFORE, in consideration of the terms, covenants and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. The recitals hereinabove set forth are a material part hereof and by this reference fully incorporated herein.

2. Attached hereto as Exhibit C and by this reference fully incorporated herein is a diagram of the easement area with the vacated right-of-way of Bellfountain Road. The parties intend that the easement that each is granting to the other for ingress, egress and all utility purposes is the twenty-two (22) feet of width from realigned Bellfountain Road to the northern property line for Tax Lot 1300 and its extension of that property line to a point where the property line extension would intersect with the east line of the above-referenced vacated Bellfountain Road right-of-way. The intersection point and the north end of the easement area is two hundred fifty-seven (257) feet north of the intersection of the east line of the vacated right-of-way and the realigned Bellfountain Road as depicted on Exhibit C.

3. The easement granted herein shall be perpetual. Maintenance of the easement area and costs of repair of the traveled way within the easement area if damaged by weather or other natural causes or normal use, shall be shared equally between the parties. Any maintenance or cost of repair that results from the negligence or abnormal use of a party of the easement area shall be borne by the party causing such damage.

4. The easement granted hereunder shall run with the land as to all property burdened and benefited by the easement. The rights, covenants and obligations contained in this agreement shall bind, burden and benefit each party's successors and assigns, lessees and mortgagees (or beneficiaries under a deed of trust).

5. Each of the parties, their heirs, successors and assigns shall indemnify and hold each other harmless in any claims arising out of the use, design or maintenance of the easement area.

Dated this 24th day of November, 2015.

Olline M. Brown Revocable Living Trust

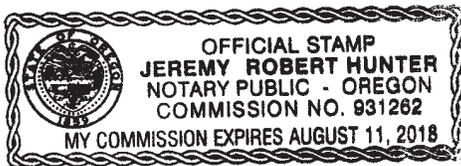
Delline D. Putman
Delline D. Putman, Trustee

Marvin Gilmour
Marvin Gilmour

Cindy Gilmour
Cindy Gilmour

State of Oregon)
)ss.
County of Benton)

The foregoing instrument was acknowledged before me on this Nov. 24, 2015, by Delline D. Putman, Trustee of the Olline M. Brown Revocable Living Trust.

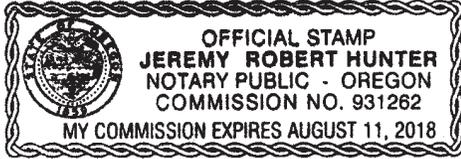


Jeremy Hunter
Notary Public for Oregon
My commission expires: 08/11/2018

EXCLUSIVE EASEMENT FOR ACCESS - PAGE 2

State of Oregon)
)ss.
County of Benton)

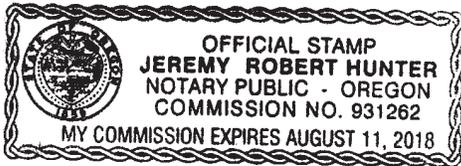
The foregoing instrument was acknowledged before me on this Nov. 24, 2015, by Marvin Gilmour.



Jeremy Hunter
Notary Public for Oregon
My commission expires: 08/11/2018

State of Oregon)
)ss.
County of Benton)

The foregoing instrument was acknowledged before me on this Nov. 24 2015, by Cindy Gilmour.



Jeremy Hunter
Notary Public for Oregon
My commission expires: 08/11/2018

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Benton, State of Oregon, described as follows:

Beginning at a point on the East line of that parcel described in deed recorded in Book 68, Page 564, Benton County Deed Records which point is 218.94 feet N, 0°09' W, 93.55 feet West, 767.71 feet S, 86°38' West and 614.02 feet S, 0°04' East of the Southwest corner of the Charles Bales D.L.C. No. 53, Township 12 South, Range 5 West, Willamette Meridian, Benton County, Oregon; thence S, 89°53' W, 607.14 feet; thence N, 0°07' W, 2009.46 feet to the center of the channel of Mary's River, thence along the center of said channel N. 39°55'56" W, 182.68 feet, N. 65°19'47" W, 99.69 feet, N. 70°59'14" W, 138.56 feet, N. 78°32'45" W, 106.98 feet S, 81°46'14" W, 54.32 feet, S, 4°12'27" W, 77.53 feet, S, 46°10'42" W, 132.40 feet, S, 64°47'20" W, 201.65 feet, N, 76°32'44" W, 146.70 feet and N. 68°52'59" W, 146.28 feet to the West line of said parcel; thence South along the West line of said parcel and the West line of that parcel described in deed recorded in Book 83, Page 565, said Deed Records 63.56 chains; thence East along the South line of said last mentioned parcel 24.65 chains; to the Southeast corner of said last mentioned parcel; thence N, 0°04' W, 2028.62 feet to the point of beginning.

NOTE: This legal description was created prior to January 1, 2008.

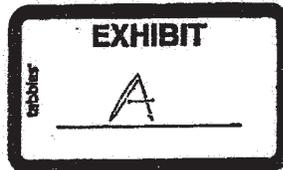
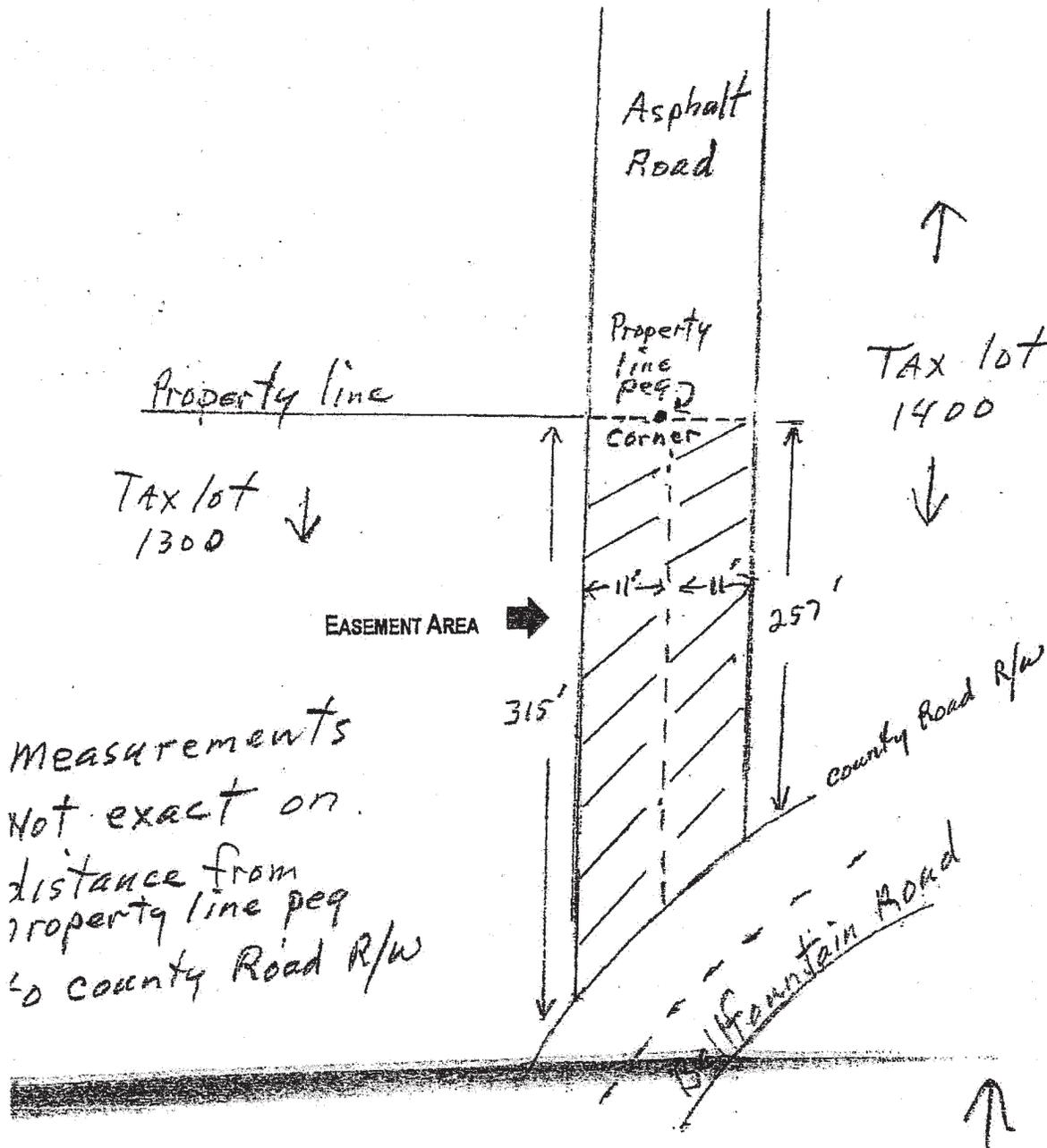


EXHIBIT "A"

Beginning at the most Easterly Southeast corner of that parcel described in deed recorded in Book 68, page 564, Benton County Deed Records which point is 218.94 feet North 0°09' West of the Southwest corner of the Charles Bates Donation Land Claim No. 53, Township 12 South, Range 5 West of the Willamette Base and Meridian, Benton County, Oregon; thence along the lines of said parcel West 93.55 feet South 88°38' West 11.612 chains; thence South 0°04' East 614.02 feet; thence South 89°53' West 607.14 feet; thence North 0°07' West 2,009.46 feet to the center of the channel of Mary's River; thence along the center of said channel South 30°55'56" East 62.71 feet; thence South 38°03'49" East 33.64 feet, South 21°37'47" East 145.60 feet; South 49°59'12" East 47.25 feet, South 85°45'44" East 87.87 feet, North 87°11'34" East 50.60 feet, North 79°33'44" East 82.30 feet, South 31°00'05" East 155.55 feet, South 63°52'01" East 136.57 feet, South 46°22'28" East 408.11 feet, South 55°12'47" East 186.29 feet, South 41°13'15" East 144.34 feet; South 36°58'32" East 169.58 feet and South 66°11'40" East 276.30 feet to the East line of said claim; thence South 0°09' East 209.58 feet to the point of beginning.





Measurements
Not exact on
distance from
property line peg
to county Road R/w

Easement Area Between
Tax lot 1300 and tax lot (1400) (Brown Trust)
(Marvin & Cindy Gilmore)
From property line peg (corner) to
county Road R/w (Bellfountain Road)



MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF PHILOMATH AND MARVIN AND CINDY GILMOUR

November 2017

SUBJECT: Recycled water irrigation pipeline, lagoon dike slope modifications, and property line adjustment.

1. BACKGROUND INFORMATION

The City of Philomath owns the wastewater treatment facility located at 4702 Bellfountain Road (Benton County Taxlot 801 Map 12 5 18). Marvin and Cindy Gilmour own the property located immediately east of the treatment plant site (Benton County Taxlot 1300 Map 12 5 18). The City of Philomath holds an easement across a 45 foot wide strip of land along the southern edge of the Gilmour property. The easement grants the City the right to cross the Gilmour property from Bellfountain Road. The City has constructed a gravel roadway within the easement. This roadway provides the City's only access to the treatment plant property.

During dry weather months, the City disposes treated effluent by irrigating on crop lands adjacent to the treatment plant. The use of recycled wastewater is regulated by the Oregon Department of Environmental Quality (DEQ). The primary regulatory documents include the City's National Pollutant Discharge Elimination System (NPDES) Permit and the City of Philomath Recycled Water Use Plan. The NPDES is issued by the DEQ. The DEQ also approves the City's Recycled Water Use Plan.

The City's long-range plan includes expanding the irrigation system to provide recycled water for irrigation of lands on the east side of Bellfountain Road. In order to implement this plan, the City will eventually need to install a pipeline across the Gilmour property. The proposed pipeline will be located within the footprint of the existing access easement. The existing access easement does not grant the City the right to install a pipeline across the Gilmour property. As such, the City would like to obtain a new easement that does grant the City the right to install a pipeline for the distribution of recycled water. The proposed pipeline easement will be 45 feet wide and will directly overlay the existing access easement.

Marvin and Cindy Gilmour plan to construct a wetland mitigation bank at the property east of the City's treatment plant property. The plans for the wetland mitigation bank include excavation work to create low lying areas at the property that will collect water. Marvin and Cindy Gilmour would like to place the excavated material along the east side of the City's lagoon dikes.

2. AGREEMENT

Marvin and Cindy Gilmour (Gilmours) hereby agree to grant the pipeline easement described above. The City will prepare the easement document, obtain the required signatures, and record the easement at Benton County.

The City agrees to allow disposal of excavated material along the lagoon dikes with the following conditions. The Gilmours will:

int: MG
int: CW
int: _____
Date 9/5/19

- Obtain all permits required by Benton County, at no cost to the City.
- ~~Prepare and get approval for a lot line adjustment, at no cost to the City. The lot line adjustment will move the eastern property line of the City's property to the new toe of the lagoon dike. The earthwork performed by the Gilmours will not block any drainage from the City's property.~~
- Submit plans to the City for review and approval prior to entering onto City property or conducting the work.
- Remove and replace the existing fence and signage along the east side of the City's property, at no cost to the City. The materials for the new fence will match the existing fence.
- Compact all material placed along the lagoon dike, at no cost to the City.
- Grade the new surface of the lagoon dikes to create a smooth, free-draining surface with a constant slope from the top of the lagoon dike to the toe of the lagoon dike, at no cost to the City.
- Repair and re-rock the access road from Bellfountain to the City-owned property once the project construction is complete and heavy equipment is no longer using the access.

Upon completion of the work, the City will allow the Gilmours to enter onto the City's property to mow the lagoon dikes and to control weed growth. The City makes no long-term commitment to mow the lagoon dikes or control weeds along the lagoon dikes.

Marvin Gilmour
Marvin Gilmour

12/21/17
Date

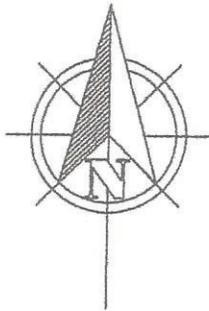
Cindy Gilmour
Cindy Gilmour

12/21/17
Date

Chris Workman
Chris Workman
Philomath City Manager

12/21/17
Date

EXHIBIT B



MARVIN & CINDY GILMOUR
T.L. 125180001300
DOC. NO. 2013-505444
DEED RECORDS, BENTON COUNTY, OREGON

BELLFOUNTAIN ROAD

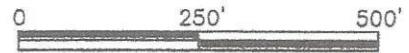
45' WIDE PIPELINE EASEMENT

P.O.B.
SW COR. DOC. NO.
2013-505444

T.L. 125180000300



PIPELINE EASEMENT



CITY OF PHILOMATH
PUBLIC WORKS

PIPELINE EASEMENT
EXHIBIT MAP

OWNER
NAME/
ADDRESS
GILMOUR, MARVIN & CINDY
6001 GILMOUR LN. N.W.
ALBANY, OR 97321-9392

SECTION 18
TOWNSHIP 12 SOUTH
RANGE 5 WEST
WILLAMETTE MERIDIAN
BENTON COUNTY, OREGON

DOC. NO. 2013-505444

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1994
GREGORY L. WILSON
2687

EXPIRATION DATE: 6/30/2018

**Exhibit C
Mitigation Plan**

TABLE OF CONTENTS

1. BANK GOALS AND OBJECTIVES	20
2. SITE SELECTION	24
3. EXISTING CONDITIONS	28
4. MITIGATION WORK PLAN.....	34
5. DETERMINATION OF CREDITS.....	45
6. PERFORMANCE STANDARDS	46
7. MONITORING PLAN AND REPORTING.....	50
8. ADAPTIVE MANAGEMENT	52
9. MAINTENANCE PLAN	53
10. SITE PROTECTION INSTRUMENT.....	55
11. LONG-TERM MANAGEMENT PLAN (LTMP)	55

LIST OF TABLES

Table 1: Acreage, method credit and classes.....	20
Table 2: Functional Ratings for Pre and Post Construction	23
Table 3: Vernal pool/Emergent seed mix.....	37
Table 4: Vernal pool/Wet prairie seed mix	38
Table 5: Wet prairie seed mix.....	39
Table 6: Upland prairie buffer seed mix	41
Table 7: Graminoid dominated border seed mix	43
Table 8: Scrub-shrub understory seed mix	43
Table 9: Scrub-shrub wetland plants.....	44
Table 10: Scrub-shrub upland buffer plants	44
Table 11: City berm seed mix.....	44
Table 12: Hydrology and construction performance standards summarized by year.....	47
Table 13: Vegetation Performance Standards	49
Table 14: Sustainability Performance Standards.....	50
Table 15: Mitigation schedule and maintenance	54

1. BANK GOALS AND OBJECTIVES

The Marys River Mitigation Bank intends to apply a combination of restoration, enhancement and creation methods to establish a native Willamette Valley wet prairie ecosystem. The following section identifies broad goals and each objective identifies target components the sponsor intends to establish to support the respective goals. The goals are illustrated with proposed topography and target habitats on figures included in Appendix M. Key features include vernal pools, wetland prairie, upland prairie, scrub/shrub buffers, and riparian forest.

Table 1: Acreage, method credit and classes

Method	Ratio	Acres	Credit	Existing HGM	Proposed HGM	Existing Cowardin	Proposed Cowardin
Restoration	1:1	14.18	14.18	Upland	Flat, Depressional	Upland	PEM, PSS
Enhancement	2:1	45.70	22.85	Flat	Flat, Depressional	PEM	PEM, PSS
Creation	1.5:1	47.98	31.99	Upland	Flat, Depressional	Upland	PEM, PSS
Buffer (sloughs)	5:1	1.67	0.33	Depressional	Depressional	PFO	PFO
Buffer (upland prairie)	10:1	6.60	0.66	Upland	Upland	Upland	Upland
Buffer (riparian forest)	5:1	6.98	1.40	Upland	Upland	Upland	Upland
Roads, staging area and south easement	0	3.53	0	Upland	Upland	Upland	Upland
TOTAL		126.64	71.41				

Goal 1: Establish native wet prairie – vernal pool ecosystem

Objective:

A. Vegetation functions– dominated by a diversity of native species, significant forbs diversity with long flowering season, inclusion of available T&E species, minimize non-native cover, zero tolerance for invasives, and maximize open areas with non-woody cover.

B. Hydrology functions – maximize area meeting wetland criteria via creation, restoration & enhancement, design berm tops to meet wetland hydrology, pools are seasonal with varying hydroperiod, maximize storage/detention and treat incoming runoff.

C. Habitat functions – pools well interspersed with prairie, open prairie for grassland birds, nesting cover in close proximity to adjacent permanent water, topographic diversity to support diverse flora and fauna, and add large wood for herps as site matures.

D. Sustainability – graminoid buffer to minimize effects of surrounding land use, diverse plant assemblages for adaptability, minimize structures, and limit erosion.

Goal 2: Establish native scrub/shrub habitat

Objective:

A. Vegetation functions– dominated by a diversity of native species, establish ≥ 5 woody species, manage for herbaceous layer in canopy openings, limit non-native cover, minimize invasive species, allow natural recruitment of overstory species and increase canopy cover over time.

B. Hydrology functions – maximize area meeting wetland criteria via enhancement, varying hydroperiod for species diversity, increase storage/detention and treat incoming runoff.

C. Habitat functions – increase woody habitat for nesting/cover, establish diverse multi-layer canopy with herbaceous openings and provide perches for a diversity of avian species.

D. Sustainability – diverse plant assemblages for adaptability, allow natural woody species recruitment and establish herbaceous layer for future changes in canopy coverage.

Goal 3: Maintain and enhance riparian/slough complex.

Objective:

A. Vegetation functions– Maintain existing Oak/Ash/Maple overstory, increase native shrub cover, manage for herbaceous layer in canopy openings, encourage native seedling tree recruitment from existing species, limit non-native cover and minimize invasive species.

B. Habitat functions – provide habitat connectivity between river and prairie habitats, increase habitat complexity with multi-layer canopy with herbaceous openings, retain down woody debris and nesting cavities and add large wood to slough.

C. Sustainability – diverse plant assemblages for adaptability, provide buffer habitat to reduce likelihood of invasion by non-native invasives and low maintenance cost after establishment period.

Goal 4: Establish upland buffer

Objective:

A. Vegetation functions– dominated by a diversity of native species, significant forbs diversity with long flowering season, diverse shrub buffer along west boundary, limit non-native cover and minimize invasive species.

B. Habitat functions – refuge from saturated/inundated habitats, habitat connectivity between riparian forest and wetlands, southwest exposure of prairie habitat suitable for turtle nesting and provide for recruitment of down woody debris and nesting cavities as the site matures.

C. Sustainability – diverse plant assemblages for adaptability, provide buffer habitat to reduce likelihood of invasion by non-native invasives and low maintenance cost after establishment period.

Goal 5: Sustain long-term functional gains

Objective:

A. Vegetation functions– preserve and enhance the plant communities by maintaining dominance of native plant species characteristic of each community and actively manage invasive species to maintain the above communities.

B. Hydrology functions – ensure the site continues to support water storage and purification functions to a similar extent as in the baseline report and maintain hydrologic conditions that support diverse wildlife habitats.

C. Habitat functions – utilize adaptive management as detailed in long-term management plan to maintain and enhance habitats.

D. Sustainability – Utilize conservation easement, long-term management plan, and funding agreement to protect and maintain the preserve in perpetuity to protect functions of site from inconsistent land uses.

The target Cowardin resource types (Figure 2B, Exhibit M) include:

- Palustrine Emergent: 103.75 acres
- Palustrine Scrub-Shrub: 4.00 acres
- Palustrine Forested: 1.67 acres

The target HGM resource types (Figure 2C, Exhibit M) include:

- Flat: 80.45 acres
- Depressional: 27.30 acres
- Depressional (sloughs in riparian forested area): 1.67 acres

Acreage, credits, HGM and Cowardin classes are summarized in Table 1 above and illustrated on Figures 2b and 2C, Exhibit M.

The following table defines the expected gains of wetland functions and services.

Table 2: Functional Ratings for Pre and Post Construction

Marys Bank Function Category	Pre Ratings		Post Ratings		Increase
	Function	Values	Function	Values	
Water Storage & Delay (WS)	Lower	Higher	Moderate	Higher	yes
Sediment Retention & Stabilization (SR)	Lower	Higher	Higher	Higher	yes
Phosphorus Retention (PR)	Moderate	Moderate	Moderate	Moderate	same
Nitrate Removal & Retention (NR)	Lower	Higher	Moderate	Higher	yes
Anadromous Fish Habitat (FA)	Lower	Lower	Lower	Lower	same
Resident Fish Habitat (FR)	Lower	Lower	Lower	Lower	same
Amphibian & Reptile Habitat (AM)	Moderate	Moderate	Higher	Moderate	yes
Waterbird Nesting Habitat (WBN)	Moderate	Moderate	Higher	Higher	yes
Waterbird Feeding Habitat (WBF)	Moderate	Higher	Higher	Higher	yes
Aquatic Invertebrate Habitat (INV)	Lower	Moderate	Higher	Moderate	yes
Songbird, Raptor, Mammal Habitat (SBM)	Lower	Moderate	Moderate	Higher	yes
Water Cooling (WC)	Lower	Lower	Moderate	Lower	yes
Native Plant Diversity (PD)	Moderate	Higher	Higher	Higher	yes
Pollinator Habitat (POL)	Moderate	Higher	Higher	Higher	yes
Organic Nutrient Export (OE)	Moderate		Moderate		same
Carbon Sequestration (CS)	Lower		Moderate		yes

The functional assessment demonstrates that the proposed bank mitigation plan will provide functional improvement in twelve categories and will remain the same in four categories. Function ratings are based on ORWAP version 3.1 scores for existing conditions prior to bank construction. After construction, changes to site conditions are expected to improve ecological

functions. After the bank is established and site conditions are stable, a new functional assessment will be completed. Subsequently, functional assessments may be updated to reflect evolution of the site. Full ORWAP scores are on file at DSL.

The riparian forest provides an essential connection between the wet prairie ecosystem and the river system. Forested upland provides important habitat, protection, resting areas and connection to the river for species in various life stages as well as accommodate seasonal habitat preferences on site. Additional information about functions/values can be found in the next section.

The following section discusses how these gains address the needs of the watershed, and the Willamette Valley ecoregion.

2. SITE SELECTION

Factors considered during the site selection process were overall watershed needs, recognized priority restoration needed in the watershed and the ability to establish an ecologically self-sustaining aquatic resource.

The Willamette Valley historically contained extensive and diverse wetlands, ranging from wet prairies, shrub swamps, and forested wetlands to backwater sloughs, oxbow lakes, and permanent marshes. Research of historical vegetation literature indicates forested riparian areas once formed wide corridors that bordered river channels in a landscape mosaic of wetland prairies and upland savannas. Extensive bottomland riparian forests contained associations of Oregon ash (*Fraxinus latifolia*), black cottonwood (*Populus trichocarpa*), red alder (*Alnus rubra*), bigleaf maple (*Acer macrophyllum*), western willows (*Salix*) and Douglas fir (*Pseudotsuga menziesii*), wetland prairies hosted a variety of forbs and graminoids including sedges, rushes, flowering plants, and native grasses (Christy et al., 2011; Hulse et al. 1998). Most of these wetlands have been lost because of agricultural, urbanization, and flood control measures, and the few that remain have been highly modified. The existing riparian corridors are extremely narrow in most areas. Virtually all of the valley's remaining wetlands are degraded by human activities to some degree, and most are dominated by invasive, non-native vegetation.

The most recent estimates show that these native plant communities prior to Euro-American settlement occupied about 1,000,000 acres of prairie, with approximately 1/3 wet prairie and 2/3 upland prairie. (Altman et al. 2001; ODFW 2016; Christy et al., 2011) Today, less than 2% of these wet prairies remain (Vesely, D.A., 2010). Many have been altered by surrounding development, changes in hydrology, natural succession to shrub lands and forests, and invasion by non-native species. These factors are largely responsible for the selection of these habitats as priority habitats under the Oregon Conservation Strategy (ODFW 2016). Today, bottomland prairie grasslands are among the rarest of the native communities with over 97% converted to agricultural and urban uses.

Benton County identified wet prairie as one of three key habitats with opportunities for conservation. Loss of prairie habitat in Benton County influenced the listing of several prairie-dependent species making protection of prairie habitat particularly important. The U.S. Fish and Wildlife Service (USFWS) finalized a Recovery Plan for listed prairie-

dependent species and for additional prairie species that may be candidates for listing in western Oregon (USFWS, 2010 and IAE, 2010).

Historically, significant losses of HGM Flats and Cowardin PEM class wetlands occurred in the watershed and throughout the Willamette Valley. Current estimates of the Cowardin land cover categories in the Willamette Valley define Cowardin PEM class as the largest land coverage area within metropolitan areas and the majority of wetland historically lost within the watershed occurs primarily within metropolitan areas. According to Morlan, 2010, the majority of the wetland losses in the Willamette Valley between 1994 and 2005 involved Cowardin PEM class wetlands with more than 900 acres of PEM lost followed by 518 acres of PSS lost and 182 acres of PFO lost. A total of 5,931 acres of wetland was lost between 1994 and 2005 with 68% lost to the upland built category. The largest loss by HGM class was more than 3,000 acres of Flats HGM (50.77 %) with depressional wetland types (DCNP, DCP, and DOF) contributing 1,516 acres (25.56 %) (Morlan, J, et al., 2010). The once abundant bottomland prairie representing the rarest of the native wetland plant communities has lost 99% of the pre-settlement area (Christy, et al., 2011).

Restoration and maintenance of wet prairie is one of the important goals identified by the Benton County Conservation Strategy (2009). The few remaining fragments of native wetland prairie support several threatened, endangered, or sensitive plant species. Aquatic habitats support limited populations of several other at-risk species, including western pond turtle, painted turtle, clouded salamander, western toad, northern red-legged frog, foothill yellow-legged frog, and the endangered Oregon chub.

The top conservation resource concerns identified by Benton County in 2015 (Snyder, T., 2015) included:

- Lack of riparian buffers - The Marys River was one stream identified as lacking riparian buffers with the major concern being high stream temperatures.
- inefficient irrigation,
- habitat fragmentation – wet prairie habitat was identified as a declining in Benton County due to land use, invasive species and encroachment of woody species due to lack of fire.
- loss of rare and unique habits – the area around Philomath has been identified as a conservation opportunity area.

The ODFW Conservation Strategy prioritized key conservation issues for conserving fish and wildlife. Restoration priorities include:

- Maintain and enhance wetlands, ponds, and associated uplands to support western pond and
- Maintain or restore riparian habitat and ecological function; ensure sufficient habitat complexity for wildlife
- Maintain watershed function and wildlife habitat by maintaining/enhancing water quality and controlling invasive species
- Protect and enhance existing oak woodland, oak savanna and grassland habitats
- Restore or maintain floodplain wetlands and wet prairie painted turtle habitat

Benton County identified six threatened and endangered species for protection of the species and habitat through the Benton County Habitat Conservation Plan. The bank intends to plant the following two species identified by Benton County as threatened or endangered.

- Bradshaw's Lomatium - Habitat for this species includes seasonally saturated wetlands and valley bottom prairie that is dominated by tufted hairgrass (*Deschampsia caespitosa*). Both of these habitat types were once widespread in the Willamette Valley, and are now extremely rare. Remaining populations are at risk from habitat loss or fragmentation, non-native species invasion such as reed canary grass, tree and shrub encroachment, and elimination of natural disturbance regimes.
- Nelson's Checkermallow - remaining populations are at risk from habitat loss or fragmentation, non-native species invasion, tree and shrub encroachment, and elimination of natural disturbance regimes.

The U.S. Fish and Wildlife Service Recovery Plan for listed prairie species of Western Oregon and Southwestern Washington, includes Fender's blue butterfly, Bradshaw's lomatium and Nelson's checkermallow (USFWS, 2010). The USFWS designated a plant recovery zone covering an area west of Corvallis which encompasses historic prairie within Benton County that includes the Marys River Mitigation Bank site.

The site lies in a landscape position formed as an alluvial floodplain mosaic of upland and wetland prairies and riparian forested areas bordering a network of rivers and tributaries. The proposed bank site was selected because of (1) its location in the lower 1/3 of the watershed and its ability to replace targeted wetland services such as water storage, water quality and terrestrial and aquatic habitat, (2) connectivity to important riverine ecosystems, (3) the ability to replace aquatic resources that have been historically lost or degraded in the watershed, (4) the need for replacement of wet prairie ecosystems in the Willamette Valley, (5) the ability of the site to be self-sustaining with minimal long term maintenance needs, and (6) the site's connectivity with multiple priority conservation areas.

The site is positioned between two ODFW conservation opportunity areas; the Finley-Muddy Creek COA the Corvallis Area Forests and Balds COA (Figure 4, Exhibit M). The Finley-Muddy Creek conservation planning effort to connect Finley National Wildlife Refuge with the confluence of Marys River and Willamette River has been a long standing investment among multiple natural resource agencies and private landowners. The area represents a priority corridor for restoration and conservation by U.S. Fish and Wildlife Service, Marys River Watershed Council, The Institute for Applied Ecology, Natural Resource Conservation Service, Oregon Department of Fish and Wildlife, and the Greenbelt Land Trust. The Greenbelt Land Trust has identified nearly 7,000 acres in active restoration in this area.

Contaminants are not known to be present. Decades of farming have produced a site free of invasive species and responsible farming practices ensure the site does not contain contaminants. Adjacent land consists of farming, rural residential use and the City of Philomath sewage lagoons, all of which are compatible with the purposed conservation project. Adjacent land use would complement the wetland functions and improve the bank's ability to provide high quality wetland services for the environment and community.

An approximately one-acre staging area in the northeast corner of the property will provide space to store equipment and materials used to maintain the bank site. Although the primary purpose is equipment and material storage, the area will be available for educational purposes as a meeting location for site tours, workshops and research. The connectivity between the wetland prairie and the riparian forested area adjacent to the river corridor was a major consideration in siting of the staging area size. As a result, the staging area allows maximum connectivity between the wetland prairie and riparian corridor, while providing an upland location to avoid wetland impacts. Minimum sizing considerations included providing adequate space for equipment storage shed, trailer storage, and having the ability to turn around loaded equipment trailer for loading/unloading. The area will be seeded and managed the same as the adjacent upland buffer. Prior to bank closure, the minimum sizing requirements will be re-evaluated for long term management and adjusted accordingly in the conservation easement. Signage or fencing will be utilized to delineate the area based on collaboration with the long term steward.

Key issues addressed by the Marys River Bank design include invasive species control, water quality, water storage and habitat protection. Restoration of farmed wetland can increase water storage potential, improve habitat, protect wildlife habitat and improve ecosystem services enjoyed by wildlife and people. The recommendations in the Oregon Conservation Strategy include use of cooperative programs such as wetlands restoration and wetland mitigation banking to manage water allocation and wetland habitats, restoration of riparian buffers and additional wetlands to increase filtering capacity and use revegetation and other means to establish and maintain healthy plant communities that are relatively resistant to invasion and that also meet other land use objectives.

The site design will improve watershed processes that have been historically degraded or destroyed in the Willamette Valley. Changes planned that will improve site hydrology, will increase water storage and improve water quality functions. The majority of wetland losses within the service area occur inside urban growth boundaries (UGB) where the remaining undeveloped parcels provide poor to moderate wetland services. Most measured losses are hydrologic and water quality function related with reductions of habitat and ecosystem support services. The proposed bank is well suited to not only replace lost hydrologic and water quality functions but also provide important habitat and ecosystem support.

Large open wetland areas and ponded depressions will increase water bird diversity, abundance, suitable nesting habitat, and nesting success. Improved native plant cover within the site and minimal disturbance during the nesting season coupled with nearby perennial water sources will significantly improve water bird nesting and feeding habitat. Broad, flat wet prairie and vernal pool depressions will provide opportunities for diverse native plant communities with high species richness, native plant diversity and complexity that will support a variety of freshwater invertebrates, pollinators, songbirds, raptor and mammals. Increased water storage coupled with restored topographic complexity will increase favorable amphibian habitat, particularly for frog and turtle species. Submerged vegetation planned in the vernal pools will provide shelter, egg-laying sites and abundant algae and invertebrates for amphibians. Terrestrial and aquatic improvements for foraging habitat, nesting/egg-laying locations, basking areas, and cooler temperature cover habitat will benefit a wide variety of reptiles and amphibians such as long-toed salamanders, and chorus

frogs. Native prairie habitat improvements will benefit neotropical migratory songbirds, waterfowl, raptors and especially ground nesting birds such as meadowlarks; mammals such as the pocket gopher, elk, coyote, as well as a broad array of invertebrates especially aquatic vernal pool species, pollinators (plantings will emphasize nectar species), and butterflies. In addition, the site will provide high quality nesting habitat for Western pond turtles and Painted turtles.

3. EXISTING CONDITIONS

The Marys River site lies on a flat flood-plain terrace. Farming, primarily grass seed cultivation, has affected most of the site for more than 80 years. Ditches and berms around the perimeter of the farmed area are heavily disturbed and dominated by exotic species. The unfarmed area at the north end is an oak woodland interspersed with open meadows with shallow back channels and sloughs adjacent to the Marys River, Figure 5, Exhibit M. The meadows are dominated by tall fescue (*Schedonorus arundinaceus*) and meadow foxtail (*Alopecurus pratensis*). Woody species in the forest area include Oregon white oak (*Quercus garryana*), Oregon ash (*Fraxinus latifolia*), black cottonwood (*Populus trichocarpa*), red alder (*Alnus rubra*), bigleaf maple (*Acer macrophyllum*), western willows (*Salix*), vine maple (*Acer circinatum*), snowberry (*Symphoricarpos albus*), hazelnut (*Corylus cornuta*), red osier dogwood (*Cornus sericea*), Nootka rose (*Rosa nutkana*) and ninebark (*Physocarpus capitatus*). Woodland understory contains similar dominant grasses in addition to Himalayan blackberry (*Rubus bifrons*) and native poison larkspur (*Delphinium trolliifolium*). Areas immediately surrounding the sloughs are vegetated with Oregon ash (*Fraxinus latifolia*), Himalayan blackberry, and reed canarygrass (*Phalaris arundinacea*).

Soil conditions are related to the three different soil types mapped by the National Resource Conservation Service (Figure 2A, Appendix M):

- Coburg silty clay loam, rarely flooded, 0-3% slopes (Contains hydric inclusions) covers 20.18 acres on south end of site and 11.66 acres in center of site.
- Conser silty clay loam, 0-3% slopes (Hydric soil) covering 46.61 acres on central area of site.
- Malabon silty clay loam, rarely flooded, 0-3% slopes (Contains hydric inclusions) covers approximately 22.9 acres at the north end of the site.

Many areas of the site have been drain tiled (see discussion next paragraph). Drained relict hydric soil (Conser) covering approximately 14 acres present near the southern end of the site is proposed for restoration.

A network of drain tiles was installed on most of the site in the fifties and sixties. Two large ditches, each over 1,600 feet long, 3-feet deep and more than 8-feet wide are present in the south end of the site. The east draining ditches cut the south end of the site and empty into a roadside ditch bordering Bellfountain Road. Ditches border the west, east and south side of the site. Three fields are separated by major ditches and each individual farm field has been crowned to aid drainage. The main discharge off-site is near the central northeast corner of the site where the tile lines and drainage ditches converge, exiting under Bellfountain road via three 18" culverts. The primary historical hydrology sources prior to construction of the ponds, tile and ditching were overland flow, shallow sub-surface flow and precipitation. Today, precipitation and overland flow toward the southwest ditch and at the northeast corner of the Philomath lagoon ponds

(Figure 3, Exhibit M) are the primary hydrology sources with water loss accelerated by the drain tiles, ditches and greater evaporation due to limited vegetated cover early in the spring.

Historically, overland flow entered across the entire west side of the site in ditches, as overland flow and shallow subsurface flow and flowed southeasterly. Around 1970, the City of Philomath constructed two large sewage treatment lagoons on the west side of the site (Figure 5, Exhibit M) which cut off the historical flow sources to the site. Prior to the pond construction, an almost 200-acre subbasin provided hydrology to the site. Today, surface water captured in a ditch network flows onto the site near the southwest corner via a 1st order tributary, Figure 3, Exhibit M. Current surface flows entering the site from the southwest were measured on 4/9/18 at 1.41 CFS. Based on previous observations, and late monitoring date, it can be assumed flows exceed this measurement for the majority of the wet season (Nov-March).

The entire site covers 126.64 acres. Habitat proposed for mitigation treatment includes approximately 74 acres of upland and approximately 47 acres of wetland with the balance of the site comprised of upland protective buffers, preserved riparian forest, staging area and access roads.

The wetland delineation map (Figure 6, Exhibit M) shows the existing wetland areas. The HGM and Cowardin classes are shown on Figures 2B and 2C. HGM classes include; Flats Class, and Depressional Class. Cowardin Classes/Subclasses include: Palustrine emergent (PEM), Palustrine scrub-shrub (PSS), and Palustrine forested (PFO).

Hydrological characteristics (Figure 3, Appendix M and wetland delineation report – WD 2018-0645) include:

- Water source: precipitation, and overland flow from upgradient subbasin with water entering the site at the north end in ditch flowing around north end of sewage lagoon and water entering site at southwest corner in ditch flowing along south end of sewage lagoon.
- Duration: October through May, sometimes into June.
- Frequency of inundation: broad depressions in middle and north field inundated for 2-10 days following rain events.
- Saturation: wetland areas saturated within 10 inches of surface January until late April.
- Depth of surface water for all wetlands varies depending on microtopography and soil profile – 0- 2” depth typical.

Wetland enhancement areas include 23.45 acres in the Middle Field and 22.25 acres in the North Field (Figure 8, Exhibit M). Both fields are hydrologically degraded caused by drain tile, regular plowing, scalping and leveling to flatten topography, and annual ditching, all intended to reduce ponding and accelerate runoff.

Water features within 500 feet of the property include (1) three sewage lagoons covering more than 80 acres on the west side and (2) the Marys River on the north end.

Surrounding land use consists of 80 acres of sewage treatment lagoons on west side, grass-seed cultivation on hundreds of acres extending west, south and east, and single-family rural residences near the east side of site, Figure 5, Exhibit M. Adjacent land use is compatible with

the purpose of the mitigation bank. Agricultural practices that control weeds on adjacent fields ensure weed problems are controlled. Proposed bank buffers and surrounding agricultural practices to control weeds will provide effective safeguards against weed encroachment.

An evaluation of potential constraints that could limit the achievement of intended wetland functions and values identified the following issues:

- Bellfountain Road bordering the east side of the site is a busy road with the potential to introduce contamination, trash, and/or invasive species.
- The City of Philomath sewage ponds bordering west side of site have the potential for overflow or a breach of containment.
- The Marys River on north side of site could be the source of waterborne invasive weed seeds during flood events.
- Farming in vicinity has the potential for pesticide spray to drift over the mitigation area.
- Water source from upgradient fields could be diverted. See hydrology discussion in following Existing Conditions section.
- 45'-wide ingress/egress easement held by City of Philomath on south side of property associated with gravel access road.
- Potential introduction of noxious weeds on lagoon slope.

Although some of these issues are unlikely, the following actions are available to deal with the problems:

- Problems introduced by traffic along Bellfountain Road will be minimized by the large drainage ditch in the right of way (ROW) that will capture most of the trash, invasive plants or other contamination and the ditch is cleaned regularly. Any attempts to establish a woody buffer to reduce road noise would adversely affect streaked horn lark and other grassland dependent avian species known to use prairies for nesting and feeding. Creation of quality habitat to lure grassland birds is a bank objective and encroachment of woody vegetation is known to be a deterrent for developing high quality grassland bird habitat. Graminoid-dominated plantings will be utilized along bank margins with highest likelihood of weed invasion to allow utilization of broadleaf specific herbicides if needed.
- The potential for the ponds to overflow or breach is minimal. Rainfall would have to be so high for either to occur that widespread flooding would also be present, and the wetland would function as intended to provide flood storage.
- Weeds associated with flood events could easily be identified and treated during the annual monitoring and maintenance.
- Pesticide drift problems are rare. Only one small field touches the bank at the northwest corner adjacent to the upland prairie. East winds are rare in this area, so activity east of the site is of little concern.
- In order to protect the existing water source connections through ditches on the north and south ends of the sewage lagoons, the bank sponsor will work with the City of Philomath if new construction is planned for the sewage lagoons to ensure similar surface flows will continue to enter the site.
- The city of Philomath has a long standing easement to access their treatments ponds through the existing road on the south end of the property. More recently, the city has sought an additional easement over this area, to install an irrigation pipeline to

deliver water to property on the east side of Bellfountain road. The city and the Gilmour's signed an MOU to specify the city's intent for the irrigation line installation, and the working relationship for disposing excess material along the city's eastern most berm, and associated maintenance to limit transport of noxious weeds onto the bank site. The intent is to install the pipeline this summer adjacent to the road so it can be planted as part of the overall seeding effort after grading. If funds are too limited to complete the pipeline this season, subsequent installation will be through the center of the gravel road which was their initial proposal.

- The gravel road associated with the ingress/egress easement will continue to be managed for access with no vegetation allowed to establish. Areas adjacent to the road will be managed in a similar manner to the rest of the site, maximizing cover of native species while limiting cover of non-native species, especially ones listed as noxious weeds. The bank sponsors, city, and city farm lessee are working together to manage the lagoon slopes adjacent to the bank. Site preparation will be ongoing through the 2019 growing season to eliminate existing vegetation. Following grading work, the lagoon slope will be no-till drilled to a diversity of native grass species, with species composition provided in table 9. Selective herbicide treatments as well as mowing are available options to manage this area through the establishment period. It is anticipated that once native species are fully established, weed infestations will not be problematic, but with an MOU in place and good working relationships, the tools are in place for adaptive management if needed.

Delineation of the south field shows 14.18 acres was formerly wetland based on mapped hydric soils based on evidence visible on historical aerials (Figure 7, Exhibit M) and lack of wetland hydrology early in the growing season.

The proposed bank design coupled with bank sponsor experience implementing highly functioning ecosystem restoration projects will significantly improve the following major functions:

Water Storage and Delay:

Hydrology for the site consists of direct precipitation, surface flows from adjacent property to the west, and flood waters from the Marys River during flood events. Current surface flows enter the site from the west as indicated on Figure 3, Exhibit M. After construction, proposed berms will serve to increase the hydroperiod, storing surface waters to varying depths to increase diversity of both plant assemblages and wildlife habitats. Waters will continue to enter and exit the site in a similar fashion to pre-construction. Once the soils are saturated, pools are full, and berms are at full capacity, additional hydrology will flow off-site as it currently does. The proposed mitigation plan will slow the volume of water that flows off the site. Flat landform, increased microtopographic variation, denser ground cover, larger ponded areas and constricted outlet will increase friction that will delay runoff and increase water storage. Although the section of the site connected to the river is limited, the river connection will benefit overbank flood events when such events occur.

Water Quality Support:

The site is designed to maximize the potential to improve water quality. Stormwater from upgradient farm fields will no longer flow off the mitigation site in ditches. Stormwater will be allowed to overland flow across the site and be retained in large vegetated depressions. Although sediment movement off flat agricultural fields is low, the site design will increase the effectiveness to intercept and filter suspended inorganic sediments, reduce runoff energy and erosion and stabilize the soil. Re-establishment of natural wetland microtopography and native wetland vegetation will facilitate interception and stabilization of sediment. Similarly, elimination of soil disturbance and establishment of year-round native plant cover will facilitate phosphorus retention and nitrogen removal.

Sediment Retention and Stabilization:

Removal of the major ditches, disconnection of tile drainage and re-grading will increase the capacity of the site to slow runoff and retain sediment. Stems and leaves of denser year-round groundcover will filter suspended sediment and reduce erosive forces. The site has the ability to retain sediment movement associated with cultivation on upgradient fields. ORWAP value scores show the site has potential to intercept upslope sediment load in a setting where expected downslope development will increase sediment output. The site's position in the landscape and large contributing area relative to site size provides a value opportunity for sediment retention. In addition, extensive farming on surrounding land produces more soil disturbance and potential erosion creating a value opportunity for the site to reduce sediment transport.

Phosphorus Retention:

Planned improvements to retain water will increase the site's function effectiveness to retain phosphorus. Phosphorus commonly adsorbs to inorganic sediments and longer residence time improves phosphorus retention. Water flowing onto the site improves the value opportunity to process and retain phosphorus to protect downstream property.

Nitrate Removal and Retention:

Site design will decrease the runoff rate to improve nitrogen removal and facilitate denitrification. Proposed changes are designed to retain potential contaminants present in stormwater runoff. Improvements to remove and retain nitrogen provide valuable services to protect downstream property and communities.

Amphibian & Reptile Habitat:

Site hydrologic and structural improvements will increase favorable amphibian habitat, particularly for frog, turtle, and salamander species. The mature forest and upland prairie will provide additional essential habitat elements. Submerged vegetation planned in the vernal pools will provide shelter, egg-laying sites and abundant algae and invertebrates for amphibians. Habitat improvements will contribute to regional biodiversity for rare species. In the future, higher density development in the surrounding countryside will reduce habitat and this site will permanently provide sustainable habitat.

Waterbird Nesting Habitat:

A landscape of large open wetland areas and ponded depressions will increase waterbird diversity, abundance, suitable nesting habitat, and nesting success. Vegetation cover within the site coupled with minimal disturbance during the nesting season and nearby perennial water

sources are all major contributors. Providing nesting habitat in an area with limited habitat resources will increase the Value score as shown on the ORWAP results. The opportunity for public viewing also increases the Value score of this function.

Waterbird Feeding Habitat:

Large open wetland fields interspersed with vernal pools vegetated with diverse native vegetation will support an abundance of feeding waterbirds. Nearby perennial water sources utilized for roosting will further contribute to utilization. The presence of species of conservation concern contributes to regional biodiversity and the ability for hunting and bird-watching increases functional value.

Resident/Migratory Fish Habitat:

The bank has opportunity to support fish by preventing loss of riparian shade and allowing the river channel to migrate. Based on personnel communication with Karen Hans, ODFW STEP biologist, all native fish species present will utilize and benefit from off-channel habitat associated with the bank. However, fish access to off-channel habitat will be limited due to the rare flood events that allow the river access to the riparian forested area. Consequently, ecological benefit to fish may be low.

Aquatic Invertebrate Habitat:

The abundance of native plant diversity and complexity, and increased water storage capacity will support a variety of freshwater invertebrates.

Songbird, Raptor, and Mammal Habitat:

Site complexity, e.g., forest and shrub species diversity, is designed to support an abundance and diversity of songbirds, raptors, and mammals. Large, open areas with low ground cover and low borders are intended to support grassland bird forage and nesting opportunities. Value scores will improve as a result of introduction of native plant communities in an otherwise entirely agricultural landscape which will increase the dependency of wetland-dependent songbirds, raptors and mammals on this wetland. Value scores also improve as a result of providing favorable habitat for rare species such as streaked horned lark, bald eagle, and Pacific pond turtle.

Native Plant Diversity:

Planting and maintaining a broad flat prairie and vernal pool depressions will provide opportunities for diverse native plant communities with high species richness. Establishment of native rare plants will increase the Value score.

Pollinator Habitat:

Native plant diversity and species richness will ensure support for pollinators like bees, wasps, butterflies, moths, flies, and beetles. The combination of native wetland and upland plant communities will increase the opportunities for pollinator host plants, nectar and nesting.

Water Cooling:

Planned changes to reduce runoff, improve site microtopography and increase water storage with vernal pools will expand the site's ability to slow the rate of runoff and allow groundwater recharge and reduce thermal loading. Although the agricultural ditches & tiles flow offsite, temp

loading is not a parameter of concern in receiving waters. However, the bank design will reduce flow offsite which will allow more infiltration to support summer baseflow.

Public Use and Recognition:

The bank will provide opportunity for nature photography, education and research. The adjacent treatment ponds are a protected 75-acre resource that provide perennial water source creating an extremely popular bird watching area. The 10-foot wide berms around the pond provide a perfect vantage point for viewing the mitigation site. The City of Philomath encourages bird watching in this area and issues permits for bird-watching access.

4. MITIGATION WORK PLAN

The mitigation work plan outlines the steps to convert the site from agricultural production to a highly functioning wetland ecosystem and associated habitats. Drawings included in Exhibit M provide scaled site plans showing project boundaries, existing and proposed wetland boundaries, restoration, creation/establishment and enhancement areas, buffers, existing and proposed contours, cross section locations, construction access location and staging areas.

- Project boundaries are shown on Figure 2, Exhibit M.
- Existing wetland boundaries are shown on Figure 6, Exhibit M.
- Proposed wetland boundaries and mitigation categories are shown on Figure 8, Exhibit M.
- Existing and proposed contours, cross sections, access and staging areas are shown in Exhibit K Grading Plan.

- a. Site preparation began in fall 2017 with a buyout of existing farm lease and spray out with broad-spectrum herbicide. The site was sprayed multiple times during the 2018 growing season to eliminate existing seed bed. A combination of mowing and spot spraying was utilized to target non-native species and reduce cover in areas not previously in agricultural production. This process will continue throughout the 2019 growing season, with a final broad-spectrum herbicide treatment 7-10 days after final seeding. The planting plan was designed to allow for both selective broadleaf and grass specific weed treatments in the early years of establishment. This will be coupled with many passes across the site annually to spot spray or hand pull undesirable species, with methods used based on effectiveness of control for a given species.

- b. Construction will begin as soon as conditions allow in summer 2019, with an estimated start date of July 1, 2019. Initial work will remove fences and existing vegetation on berm and along the west property line with City of Philomath to allow for fill placement. Mass grading will follow design shown in grading plan Exhibit K. The topmost layer of soil, including residual organic matter will be stock piled at the top of city berm to be placed on top of finished grade. The next 6" of excavated material which will be comprised of topsoil will be stock piled and redistributed across all excavated areas after grading and incorporated in. Initial grading for the footprints of low berms will follow this initial stage, then an ~18" deep core trench will be cut in center of footprint until heavy clay with adequate moisture is reached on berm along Bellfountain road. Core trench will be backfilled utilizing heavy clay with proper moisture content and heavily compacted with loaded 623 Scraper to prohibit subsurface lateral flow. These same soil characteristics will be specified for ditch filling and constructing compacted core of berms. Course grading will follow with the majority of material being placed out of floodplain on adjacent city berm and approved fill sites nearby, with remaining material re-distributed throughout site and berms. Stock-piled topsoil will be redistributed in excavated areas and used to top dress all fill areas. Once the bulk of earthmoving is complete to ensure un-compromised access, construction actions will focus on disabling the existing tilling system working west from the known outlet. An excavator will be utilized to remove outlet structure, and all mainlines which feed into it until all junctions with lateral lines are disabled. To disable lateral lines, a 5 foot single shank sub-soiler will be pulled through the entire site, working north to south on 100 foot intervals to ensure adequate disruption of the system. All disturbed areas will be disked and harrowed to break up compaction and prepare seed bed for final seeding. Equipment utilized: dozers, excavators, scrapers, tractors, pull-behind scraper, dump trucks, disk, harrow, and grader.

Restoration efforts will focus on disabling drainage and creating shallow impoundments to detain runoff and rainfall. The existing culvert in the southwest corner, originally designed to route water around the site rather than through the historical drainage swales, is failing. This culvert will be replaced with a new 30" culvert, just south of the original to minimize excavation volume, with an outfall elevation of 247.5 feet onto the bank site. Water will flow through a shallow swale into vernal pool #1 with a target ponding depth of 6"-12" spread across the pool floor. Another shallow swale will be excavated in pool #1 with an outfall elevation of 248 feet, allowing water to spread as sheet flows across the site.

Two low lying berms are included in the project design to slow movement of surface water off the site with core trenches designed to slow sub-surface flows. Both berms will have a minimum of 10:1 slopes to blend into the landscape and allow for full submersion during flood events. Berm number 1 will have a top elevation of 248.5', while the roadside berm will have a top elevation of 247'. Each berm will tie into existing grade at the south end of berms slightly below (0.5"-1") top of berm elevations. This will allow water to initially spill around berms during storm events through a wide low gradient spillway. This will reduce velocity for larger events that will flow over berms in large flat sections preventing erosion. Precise grading will ensure water spilling over berms will cover a broad flat area while flowing at a low velocity. If for some reason over-berm flows are concentrated in a small area, jute matting will be installed to prevent erosion and allow vegetation to fully establish and stabilize soils.

Work in the riparian forested area will focus on reduction of dead organic matter through mowing and mastication to expedite decomposition prior to final seeding. All herbaceous areas will be flail-mowed multiple times with dry conditions to breakdown all existing vegetation. Areas targeted for additional shrub planting are dominated by Himalayan blackberry, and will be masticated multiple times to eliminate biomass and prepare seedbed for seeding. Large down woody debris located in areas of active management during the establishment period will be strategically placed within the sloughs to provide basking sites for Western pond turtles and increase habitat complexity.

- c. Proposed water sources will not change. Surface flows, shallow subsurface flow and direct precipitation are the existing water sources and the proposed water sources will not change. Figure 3, Exhibit M shows the existing water sources from the upgradient fields, one that flows around the north lagoon pond and the other that flows onto the site at the southwest corner. The proposed site design will spread the water flowing onto the site and delay runoff allowing sediment retention, nutrient removal and groundwater recharge. In addition, the site design will improve retention of water by removing features like drain tile and ditches.

The proposed planting plan species list is included in Tables 1-8 for each planting area, and the planting plan map is included in Figure 9, Exhibit M. Plant indicator status is based on the State of Oregon 2016 Wetland Plant List (Lichvar, R.W., et. al. 2016). Species composition and seeding rates may vary based on actual 2019 yields. The seeding mixes are based on habitat type, anticipated hydrologic regime, and desired habitat complexity, with many species included that are highly adaptable to a diversity of habitats. The overall planting plan includes over 80 native species known to occur within the bank habitats that are either commercially available, or collectable on other Oregon Wetland LLC properties. Oregon Wetland LLC is also working with USFWS to include Nelson's checker mallow and Bradshaw's desert parsley from their collected seed stocks to include in seed mixes. Seeding will occur in fall after significant rainfall, utilizing Oregon Wetlands LLC's no-till drill. Specific seeding information will be further documented in the post-construction report.

Through conversations with local bird expert, Doug Robinson (OSU professor and lead researcher of Oregon 2020 project), woody plantings will ideally be limited to the western and

southern borders of the site to optimize utilization by grassland birds including streaked horn lark. Initial design includes a Scrub-Shrub buffer along the western property line which will include multiple species of known wetland plants in the wetland portion, and transition to upland species as it enters the upland buffer. This will add to habitat complexity without excluding grassland dependent species, and provide addition nesting habitat, with potential perch location for utilization by Oregon vesper sparrows. The herbaceous layer will be no-till drilled following planting plan, and woody plants will be hand planted in early winter on rows 8' wide running north/south with each plant 3.5' apart within rows for overall density of approximately 1,555 plants/acre.

The riparian forested area and associated sloughs are the only areas of the site not currently in agricultural production. Existing habitat consists of a mature overstory of Oregon white oak, big leaf maple, and Oregon ash, with herbaceous openings dominated by non-native grasses and Himalayan blackberry, with meandering sloughs. Site preparation will be similar to the remainder of the site in 2019, eliminating all non-native species, with a final broad spectrum treatment 10-14 days after final seeding. Figure 9 highlights planting areas for this habitat unit. All upland herbaceous areas and additional shrub planting areas will be seeded with the upland prairie seed mix utilized in the upland buffer. The slough areas will be seeded with a combination of emergent/vernal pool/wet prairie seed mixes to ensure adequate establishment within this diverse hydrologic regime. Since areas targeted for additional shrub planting were dominated by Himalayan blackberries, woody planting will be delayed until winter 2020-21 to ensure adequate control. Woody planting will consist of dense clusters of flowering currants, snowberry, and elderberry throughout the additional shrub planting areas. In addition, clusters of slough sedge and Wapato bulbs will be planted at the same time in appropriate hydrologic zones within the sloughs.

Within the riparian forested area, the bank sponsors believe there are areas of riverine flow-through HGM class wetland along the south bank of the river that was not evaluated in the initial pre-project delineation as it was inaccessible due to blackberries. The sponsors propose to re-vegetate with native herbaceous and woody species and monitor the same as the rest of the riparian buffer. If this area can be confirmed as wetland via agency concurrence on an amended delineation, the agencies would add recognition of Riverine flow-through HGM class to RIBITs and DSL website.

Table 3: Vernal pool/Emergent seed mix

Vernal pool/Emergent (9 acres)			
Species/Variety		Indicator	
Common Name	Latin Name	Status	Grams/ac
Water plantain	<i>Alisma subcordatum</i>	OBL	37.4
Slim-leaf Onion	<i>Allium amplexans</i>	NOL	28.1
Sloughgrass	<i>Beckmannia syzigachne</i>	OBL	74.1
Dense Sedge	<i>Carex densa</i>	OBL	19.5
One-sided Sedge	<i>Carex unilateralis</i>	FACW	7.2
Downigia	<i>Downigia elegans</i>	OBL	10.1
Ovate spikerush	<i>Eleocharis ovata</i>	NOL	26.1

Dense Spike-primrose	<i>Epilobium densiflorum</i>	FACW	23.2
Western mannagrass	<i>Glyceria occidentalis</i>	OBL	79.0
Bractless hedgehyssop	<i>Gratiola ebracteata</i>	OBL	20.0
Willamette Gumweed	<i>Grindelia integrifolia</i>	FACW	7.2
Rice cutgrass	<i>Leersia oryzoides</i>	OBL	82.3
Meadow Deervetch	<i>Lotus pinnatus</i>	FACW	75.9
Cutleaf silverpuffs	<i>Microsteris (Phlox) gracilis</i>	FACU	47.5
Monkeyflower	<i>Mimulus guttatus</i>	OBL	0.2
Narrow-leaf Miners Lettuce	<i>Montia linearis</i>	FAC	27.9
Fragrant popcorn flower	<i>Plagiobothrys figuratus</i>	FACW	44.8
Straightbeak Buttercup	<i>Ranunculus orthorhyncus</i>	NOL	69.6
Western Burnet	<i>Sanguisorba annua (occidentalis)</i>	NOL	40.7
Softstem bulrush	<i>Schoenoplectus tabernaemontani</i>	OBL	39.5
Small-fruit bulrush	<i>Scirpus microcarpus</i>	OBL	39.5
Rufous bulrush	<i>Scirpus pendulus</i>	OBL	4.0
White brodiaea	<i>Triteleia hyacinthina</i>	FAC	29.7

Table 4: Vernal pool/Wet prairie seed mix

Vernal pool/Wet Prairie (18 acres)			
Species/Variety		Indicator Status	Grams/ac
Common Name	Latin Name		
Slim-leaf Onion	<i>Allium amplexans</i>	NOL	28.1
Showy Milkweed	<i>Asclepias speciosa</i>	FAC	82.3
Slough grass	<i>Beckmannia syzigachne</i>	OBL	37.1
Great Camas (tall)	<i>Camassia leichtlinii</i>	FACW	79.2
Dense Sedge	<i>Carex densa</i>	OBL	38.9
Sawbeak Sedge	<i>Carex stipata</i>	OBL	34.7
One-sided Sedge	<i>Carex unilateralis</i>	FACW	18.0
Downingia	<i>Downingia elegans</i>	OBL	5.1
Ovate spikerush	<i>Eleocharis ovata</i>	NOL	26.1
Dense Spike-primrose	<i>Epilobium densiflorum</i>	FACW	11.6

Large-leaves Avens	<i>Geum macrophyllum</i>	FAC	13.0
Bractless hedgehyssop	<i>Gratiola ebracteata</i>	OBL	10.0
Willamette Gumweed	<i>Grindelia integrifolia</i>	FACW	31.0
Dagger-leaved Rush	<i>Juncus ensifolius</i>	FACW	0.4
Poverty rush	<i>Juncus tenuis</i>	FAC	0.1
Bare-stem Lomatium	<i>Lomatium nudicaule</i>	FACU	50.0
Meadow Deervetch	<i>Lotus pinnatus</i>	FACW	75.9
Spanish clover	<i>Lotus unifoliolatus</i> (L. <i>purshianus</i>)	FACU	22.2
Large-leaf Lupine	<i>Lupinus polyphyllus</i>	FAC	98.8
Mountain tarweed	<i>Madia glomerata</i>	FACU	7.3
cutleaf silverpuffs	<i>Microsteris gracilis</i>	FACU	23.7
Monkeyflower	<i>Mimulus guttatus</i>	OBL	0.4
Narrow-leaf Miners Lettuce	<i>Montia linearis</i>	FAC	33.5
Fragrant popcorn flower	<i>Plagiobothrys figuratus</i>	FACW	22.4
Straightbeak Buttercup	<i>Ranunculus orthorhyncus</i>	NOL	27.8
Willow Dock	<i>Rumex salicifolius</i>	FACW	37.7
Western Burnet	<i>Sanguisorba annua</i> (<i>occidentalis</i>)	NOL	8.1
Oregon Saxifrage	<i>Saxifraga oregana</i>	FACW	1.4
Small-fruit bulrush	<i>Scirpus microcarpus</i>	OBL	11.5
Rufous bulrush	<i>Scirpus pendulus</i>	OBL	4.0
Nelson's checkermallow	<i>Sidalcea nelsonii</i>	FAC	39.5
Hall's Aster	<i>Symphotrichum</i> (<i>Aster</i>) <i>hallii</i>	NOL	1.1
White brodiaea	<i>Triteleia hyacinthina</i>	FAC	14.8
Meadow deathcamas	<i>Zigadenus venenosus</i>	FACU	12.3

Table 5: Wet prairie seed mix

Wet prairie (71 acres)		
Species/Variety		Grams/ac

Common Name	Latin Name	Indicator Status	
Yarrow	<i>Achillea millefolium</i>	FACU	7.0
Slim-leaf Onion	<i>Allium amplexans</i>	NOL	5.6
Showy Milkweed	<i>Asclepias speciosa</i>	FAC	82.3
Great Camas (tall)	<i>Camassia leichtlinii</i>	FACW	108.0
Common camas	<i>Camassia quamash</i>	FACW	39.5
Dense Sedge	<i>Carex densa</i>	OBL	38.9
Chamisso Sedge	<i>Carex pachystachya</i>	FAC	21.8
Pointed Broom Sedge	<i>Carex scoparia</i>	FACW	15.4
Sawbeak Sedge	<i>Carex stipata</i>	OBL	34.7
One-sided Sedge	<i>Carex unilateralis</i>	FACW	18.0
Farewell-to-Spring	<i>Clarkia amoena</i>	NOL	19.1
Small-flowered Godeti	<i>Clarkia purpurea</i> ssp <i>quadrivulnera</i>	NOL	10.5
Large-flowered Collomia	<i>Collomia grandiflora</i>	NOL	48.7
Dense Spike-primrose	<i>Epilobium densiflorum</i>	FACW	11.6
Oregon sunshine	<i>Eriophyllum lanatum</i>	NOL	16.9
Large-leaves Avens	<i>Geum macrophyllum</i>	FAC	13.0
Willamette Gumweed	<i>Grindelia integrifolia</i>	FACW	31.0
Dagger-leaved Rush	<i>Juncus ensifolius</i>	FACW	0.4
Poverty rush	<i>Juncus tenuis</i>	FAC	0.1
Bradshaw's desertparsley	<i>Lomatium bradshawii</i>	FACW	33
Bare-stem Lomatium	<i>Lomatium nudicaule</i>	FACU	50
Spanish clover	<i>Lotus unifoliolatus</i> (L. <i>purshianus</i>)	FACU	22.2
Large-leaf Lupine	<i>Lupinus polyphyllus</i>	FAC	98.8
riverbank lupine	<i>Lupinus rivularis</i>	FAC	68.3
Woodrush	<i>Luzula comosa</i>	FAC	5.2
Showy Tarweed	<i>Madia elegans</i>	NOL	9.3

mountain tarweed	<i>Madia glomerata</i>	FACU	7.3
cutleaf silverpuffs	<i>Microseris laciniata</i>	FACU	31.2
Slender-leaved Microseris	<i>Microseris gracilis</i>	FACU	23.7
Narrow-leaf Miners Lettuce	<i>Montia linearis</i>	FAC	33.5
Oregon Yampah	<i>Perideridia oregana</i>	NOL	40.5
Fragrant popcorn flower	<i>Plagiobothrys figuratus</i>	FACW	22.4
Rosy Plectritis	<i>Plectritis congesta</i>	FACU	15.1
Slender Cinquefoil	<i>Potentilla gracilis</i>	FAC	20.9
Self-heal	<i>Prunella vulgaris</i> var lanceolata	NOL	49.4
Western Buttercup	<i>Ranunculus occidentalis</i>	FACW	19.8
Straightbeak Buttercup	<i>Ranunculus orthorhyncus</i>	NOL	27.8
Willow Dock	<i>Rumex salicifolius</i>	FACW	37.7
Western Burnet	<i>Sanguisorba annua</i> (occidentalis)	NOL	8.1
Oregon Saxifrage	<i>Saxifraga oregana</i>	FACW	1.4
Meadow Checkermallow	<i>Sidalcea campestris</i>	FACU	39.5
Nelson's checkermallow	<i>Sidalcea nelsonii</i>	FAC	39.5
Idaho blue-eyed grass	<i>Sisyrinchium idahoense</i>	FACW	27.2
Hall's Aster	<i>Symphotrichum</i> (Aster) hallii	FACU	1.1
Meadow Goldenrod	<i>Solidago elongata</i>	NOL	4.3
Narrowleaf Mule's Ear	<i>Wyethia angustifolia</i>	FACU	59.5
Meadow deathcamas	<i>Zigadenus venenosus</i>	FACU	12.3

Table 6: Upland prairie buffer seed mix

Upland prairie buffer (14 acres)			
Species/Variety		Indicator Status	Grams/ac
Common Name	Latin Name		

Yarrow	<i>Achillea millefolium</i>		7.0
Common Fiddleneck	<i>Amsinckia menziesii</i>		56.2
Western Red Columbine	<i>Aquilegia formosa</i>		54.9
Great Camas (tall)	<i>Camassia leichtlinii</i>		79.2
Farewell-to- Spring	<i>Clarkia amoena</i>		38.3
Small-flowered Godeti	<i>Clarkia purpurea</i> ssp <i>quadrivulnera</i>		10.5
Large-flowered Blue-eyed Mary	<i>Collinsia grandiflora</i>		42.5
Large-flowered Collomia	<i>Collomia grandiflora</i>		48.7
Oregon sunshine	<i>Eriophyllum lanatum</i>		33.8
Roemer's fescue	<i>Festuca roemerii</i>		197.6
Large-leaves Avens	<i>Geum macrophyllum</i>		13.0
Blue-Field Gillia	<i>Gilia capitata</i>		19.6
Celeryleaf- Licoriceroot	<i>Ligusticum apiifolium</i>		46.5
Bare-stem Lomatium	<i>Lomatium nudicaule</i>		49.9
Spring gold	<i>Lomatium triternatum</i>		31.0
Spanish clover	<i>Lotus unifoliolatus</i> (L. <i>purshianus</i>)		22.2
Sickle-keeled Lupine	<i>Lupinus albicaulis</i>		23.2
Large-leaf Lupine	<i>Lupinus polyphyllus</i>		98.8
Grassy Tarweed	<i>Madia gracilis</i>		9.5
Varileaf phacelia	<i>Phacelia heterophylla</i>		17.7
Rusty Popcorn Flower	<i>Plagiobothrys nothofulvus</i>		25.7
Sticky Cinquefoil	<i>Potentilla glandulosa</i>		13.9
Slender Cinquefoil	<i>Potentilla gracilis</i>		13.9
Self-heal	<i>Prunella vulgaris</i> var <i>lanceolata</i>		49.4
Western Buttercup	<i>Ranunculus occidentalis</i>		49.4
Straightbeak Buttercup	<i>Ranunculus orthorhyncus</i>		69.6

Willow Dock	Rumex salicifolius		37.7
Rose Checkermallow	Sidalcea malviflora ssp. virgata		74.3
Idaho blue-eyed grass	Sisyrinchium idahoense		27.2
Prairie Violet	Viola praemorsa		23.5

Table 7: Graminoid dominated border seed mix

Graminoid dominated border (9 acres)			
Species/Variety		Indicator	
Common Name	Latin Name	Status	Grams/ac
Spike bent grass	Agrostis exerata	FACW	21.2
Shortawn foxtail	Alopecurus aequalis	OBL	45.6
Sloughgrass	Beckmannia syzigachne	OBL	222.3
Dense Sedge	Carex densa	OBL	233.5
One-sided Sedge	Carex unilateralis	FACW	137.1
CA oatgrass	Danthonia californica	FAC	282.3
Tufted hairgrass	Deschampsia cespitosa	FACW	71.4
Slender hairgrass	Deschampsia elongata	FACW	51.5
Roemer's fescue	Festuca roemerii	NOL	237.1
Meadow barley	Hordeum brachyantherum	FACW	293.0

Table 8: Scrub-shrub understory seed mix

PSS Understory (4 acres)			
Species/Variety		Indicator	
Common Name	Latin Name	Status	Grams/ac
Spike bent grass	Agrostis exerata	FACW	21.2
Shortawn foxtail	Alopecurus aequalis	OBL	45.6
Sloughgrass	Beckmannia syzigachne	OBL	111.2
Dense Sedge	Carex densa	OBL	116.7
One-sided Sedge	Carex unilateralis	FACW	68.5
CA oatgrass	Danthonia californica	FAC	423.4
Slender hairgrass	Deschampsia elongata	FACW	25.8
Common rush	Juncus effusus	FACW	6.6
Slender Cinquefoil	Potentilla gracilis	FAC	41.8
Self-heal	Prunella vulgaris var lanceolata	NOL	148.1

Table 9: Scrub-shrub wetland plants

Scrub-shrub wetland plants (4 acres)			
Species/Variety		Indicator Status	Plants/ac.
Common Name	Latin Name		
Service berry	amelanchier alnifolia var. semiintegrifolia	NOL	75
Red osier dogwood	Cornus sericea	FACW	100
Pacific crabapple	Malus (pyrus) fusca	FACW	100
Pacific nine bark	Physocarpus capitatus	FACW	80
Nooka rose	Rosa nutkana	FAC	300
Hookers willow	Salix hookeriana	FACW	300
Scoulers willow	Salix scouleriana	FAC	86
Sitka willow	Salix sitchensis	FACW	214
Spirea	Spiraea douglasii	FACW	300

Table 10: Scrub-shrub upland buffer plants

Scrub-shrub upland buffer plants (0.5 acres)		
Species/Variety		Plants/ac.
Common Name	Latin Name	
Coyote bush	Baccharis pilularis	20
Oregon Grape	Mahonia aquifolium	300
Indian plum	Oemleria cerasiformis	300
Red flowering currant	Ribes sanguineum	350
Blue elderberry	Sambucus caerulea	300
Snow berry	Symphoricarpos albus	300

Table 11: City berm seed mix

City Berm seed mix (2 acres)			
Species/Variety		Indicator Status	Grams/ac
Common Name	Latin Name		
Spike bent grass	Agrostis exerata	FACW	21.2
CA oatgrass	Danthonia californica	FAC	282.3
Tufted hairgrass	Deschampsia cespitosa	FACW	71.4
Slender hairgrass	Deschampsia elogata	FACW	51.5
Roemer's fescue	Festuca roemerii	NOL	237.1
Meadow barley	Hordeum brachyantherum	FACW	293.0

5. DETERMINATION OF CREDITS

The table in Exhibit D contains treatment areas and credits generated for each. The rationale for this determination is explained in the above goals and objectives sections (Exhibit C). Treatment areas are shown on Figure 2, Exhibit M and credit generation areas are shown on Figure 8, Exhibit M. In addition, credit determination and related acre ratios followed rules outlined in OAR 141-085-0690(4) with one exception explained below. However, OAR 141-0690(4) has been superseded by new rules effective April 2019 but this project was grandfathered under prior rules.

The one exception is the credit generation ratio for two areas; the “mixed forested riparian buffer” and the “sloughs”, both of which are located at the north end of the site. The acre ratio for each is 5:1 which was negotiated with IRT based on existing resource values and understory improvements.

6. PERFORMANCE STANDARDS

General

Ecologically-based standards will be used to determine whether the compensatory mitigation project is achieving its objectives (See 33 CFR §332.5). Performance standards (PS) are based on metrics that can objectively show whether each of the goals and objectives have been met. Construction standards include variation from design specs, hydrology changes, and erosion; monitoring methods include the as-built survey, photos, observations and the delineation. Biologic standards include annual minimum or maximum metrics for vegetation cover, nativity and diversity in the various habitat type zones; methods follow agency guidance. Sustainability standards ensure that the site protection, long term plan and endowment are adequate and secured.

Hydrology

Because hydrologic patterns vary based on annual precipitation, documentation of actual ecological indicators (e.g., sediment movement, sub-surface water flow quantification, or infiltration rate) would require numerous years of intensive baseline data and intensive monitoring to detect a significant change. Instead, our monitoring utilizes the following measures to document changing conditions because of wetland enhancement: (1) documenting completed actions (as-built survey), (2) photo monitoring combined with mapping of visible surface water flow across the site and (3) water depth and length of inundation in vernal pools. Most of the proposed hydrologic enhancements will have site-wide effects, therefore most of the performance criteria for hydrology relate to changes in hydroperiod in addition to typical wetland hydrology indicators. Table 10 summarizes the performance criteria by year as described below.

- PS Hydro 1. Excavate vernal pools, construct low berms and eliminate extensive ditch network. This will be documented in year one with as-built report. For the purposes of this document, vernal pools are defined as shallow vegetated wetlands that are inundated for at least 8 weeks from January through April, but typically dry completely by early to mid-summer and often, though not always, support annual members of native plant genera such as *Gratiaola*, *Navarettia*, *Plagioboterys*, and *Downingia*.
- PS Hydro 2. At least 5 vernal pools will hold water for at least 8 weeks between January and April. This will be documented with November-March fills dates, depth of inundation and duration of ponding. This will be tracked for a minimum of 2 years with normal precipitation, prior to delineation “lite” completion and discontinued after concurrence.
- PS Hydro 3. Ditches & tiles effectively disabled, there will be no evidence of ditch or tile outfalls continuing to flow. The east edge of the site will be patrolled at least twice in initial 2 winters after the soil profile is saturated to look for subsidence of ditch fills, tile blow-outs, or point-source flows into the Bellfountain roadside ditch. Any such occurrences will be mapped and remediated the following dry season and described in the annual monitoring report.

•PS Hydro 4. Absence of significant erosion. Erosion control BMP’s will be employed as needed to prevent downcutting where water spills over berms or other impoundments, to minimize erosion from the lagoon slopes, and to minimize deposition into Bellfountain roadside ditch. To document this PS, all berm tops and spillway areas, the toe of the lagoon slope, as well as the full length of the tax lot boundary along Bellfountain road will be monitored for evidence of erosion or sediment deposition shortly after major rain events in initial years, until vegetation is established. Deposits of more than a few inches of sediment will be tracked back to the source and additional BMPs applied in the same season, to be documented with photo points in the annual monitoring report.

• PS Hydro 5. Final delineation. The extent of wetland restoration, creation, and enhancement achieved will be confirmed by a delineation conducted according to DSL’s “delineation light” protocols in spring of a year when precipitation is in normal range, during or after the 3rd growing season. When the delineation has been confirmed, the sponsor will provide the agencies with an updated Figure 8 and Exhibit D credit table showing any corresponding adjustments to the credit yield.

Table 12: Hydrology and construction performance standards summarized by year

Year	Hydrology Performance Standard	Monitoring Method
1	PS 1	As-built Report
2	PS 2	November-March fill dates, depth of inundation and duration of ponding
2	PS 3, PS 4	Visual observations following major precipitation events
3	PS 2	November-March fill dates, depth of inundation and duration of ponding
3	PS 3, PS 4	Visual observations following major precipitation events
3 or later	PS 5	DSL’s “delineation light” protocol
4 (only if needed)	PS 2, PS 3, PS 4	Will follow above protocols until final delineation is completed

Vegetation

Proposed vegetation performance standards for the Bank meet or exceed those minimums defined by the Oregon Department of State Lands in their Routine Performance Standards for Vegetation (DSL 2009). Vegetation monitoring will follow protocols outlined in monitoring plan, section 7. To define invasive nonnative plants, we use the definition of invasive plant species currently used by the Department of State Lands (2009). It considers the following as invasive plant species: (1) those that occur on the Oregon Department of Agriculture’s Noxious Weed List; (2) The following species: *Phalaris arundinacea*, *Mentha pulegium*, *Holcus lanatus*, and *Anthoxanthum odoratum*; (3) the last non-native crop on the site (*Lolium multiflorum* and *Festuca arundinacea*) and (4) beginning in year three, a nonnative species that comprises more than 15% cover over at least 10% of the vegetation monitoring area and increases from one monitoring year to the next. In addition to the description below, they are summarized by year in Table 11.

Herbaceous Habitat Class

- PS Herb 1. Absolute native vascular plant cover is $\geq 40\%$ by year 2, $\geq 50\%$ by year 3, $\geq 60\%$ by year 4 and $\geq 75\%$ by year 5.
- PS Herb 2. Bare ground is $\leq 40\%$ by year 2, $\leq 30\%$ by year 3, and $\leq 20\%$ for the remainder of the monitoring period, excluding areas meeting the definition of vernal pool hydrology.
- PS Herb 3. Non-native invasive plant species cover does not exceed 10% cover in years 2, 3, 4, and 5.
- PS Herb 4. For years 3-5, the herbaceous habitat class will contain a minimum of 6 native species, or groupings of native species, each with at least 5% cover averaged across plots. To qualify as one of the species or groupings to be counted, the species or group will occur in at least 10% of the herbaceous plots and have at least 1% average cover across all herbaceous plots.
- PS Herb 5. Woody cover is $\leq 5\%$ throughout the herbaceous habitat class.

Upland Buffer Habitat Class

- PS Upl 1. Absolute native plant cover is $\geq 40\%$ by year 2, $\geq 50\%$ by year 3 $\geq 60\%$, by year 4 and 5.
- PS Upl 2. Bare ground is $\leq 40\%$ by year 2, $\leq 30\%$ by year 3, and $\leq 20\%$ for the remainder of the monitoring period
- PS Upl 3. Non-native invasive plant species cover does not exceed 10% cover in years 2, 3, 4, and 5.

Scrub-Shrub Habitat Class

- PS Pss 1. Herbaceous absolute native vascular plant cover is $\geq 40\%$ by year 2, $\geq 50\%$ by year 3, and $\geq 60\%$ by year 4.
- PS Pss 2. Native woody plant/stem counts $\geq 1,200/\text{ac}$ by year 2, $\geq 1,300/\text{ac}$ with measurable cover by year 3 with cover values increasing at least 5% over previous year in years 4-6.
- PS Pss 3. Bare ground is $\leq 40\%$ by year 2, $\leq 30\%$ by year 3 and $\leq 20\%$ by year 4.
- PS Pss 4. For years 3-5, the scrub-shrub habitat class will contain a minimum of 6 native species, or groupings of native species, each with at least 5% cover averaged across plots. To qualify as one of the species or groupings to be counted, the species or group will occur in at least 10% of the scrub-shrub plots and have at least 1% average cover across all scrub-shrub plots.
- PS Pss 5. Native absolute cover (all strata) $\geq 70\%$ by year 5.
- PS Pss 6. Non-native invasive plant species cover does not exceed 10% cover in years 2, 3, 4, and 5.

Mixed Forested Riparian Buffer Habitat Class

- PS Rip 1. Native shrubs and herbaceous species will increase cover at least 5% per year after year 3 until native shrub and herbaceous absolute cover reaches 60%.
- PS Rip 2. Bare ground is $\leq 30\%$ by year 3, and $\leq 20\%$ for the remainder of the monitoring period, excluding inundation zone within sloughs and areas with 100% canopy closure.
- PS Rip 3. For years 3-5, the mixed forested riparian buffer habitat class will contain a minimum of 6 native species, or groupings of native species, each with at least 5% cover averaged across plots. To qualify as one of the species or groupings to be counted, the

species or group will occur in at least 10% of the mixed forested riparian buffer plots and have at least 1% average cover across all mixed forested riparian plots.

- PS Rip 4. Non-native invasive plant species cover does not exceed 10% cover in years 2, 3, 4, and 5.

If additional riverine flow-through HGM class wetland within the mixed forested riparian buffer can be confirmed via agency concurrence on an amended delineation, additional monitoring will be conducted to document performance. This area would be managed to meet performance standards Rip-1 through Rips-3. Rip-4 (max 10% invasive years 2-5) would not apply to the new area and a new performance standard, Rip-5 would cover the new area. The new performance standard for Rip-5 would be the DSL routine standard of 30% max Reed canarygrass and other invasive species until woody canopy cover exceeds 50%. An additional belt transect (#4) will be added to a representative area for monitoring.

Table 13: Vegetation Performance Standards

Year	Habitat Class	Vegetation Performance Standard	Monitoring Method
2	Herbaceous	PS Herb 1, PS Herb 2, PS Herb 3 and PS Herb 5	stratified systematic plot
3	Herbaceous	PS Herb 1, PS Herb 2, PS Herb 3, PS Herb 4 and PS Herb 5	stratified systematic plot
3	Herbaceous	PS Herb 1, PS Herb 2, PS Herb 3, PS Herb 4 and PS Herb 5	stratified systematic plot
4	Herbaceous	PS Herb 1, PS Herb 2, PS Herb 3, PS Herb 4 and PS Herb 5	stratified systematic plot
5	Herbaceous	PS Herb 1, PS Herb 2, PS Herb 3, PS Herb 4 and PS Herb 5	stratified systematic plot
2	Upland buffer	PS Upl 1, PS Upl 2 and PS Upl 3	stratified systematic plot
3	Upland buffer	PS Upl 1, PS Upl 2 and PS Upl 3	stratified systematic plot
4	Upland buffer	PS Upl 1, PS Upl 2 and PS Upl 3	stratified systematic plot
5	Upland buffer	PS Upl 1, PS Upl 2 and PS Upl 3	stratified systematic plot
2	Scrub-Shrub	PS Pss 1, PS Pss 2, PS Pss 3, PS Pss 4 and PS Pss 6	stratified systematic plot
3	Scrub-Shrub	PS Pss 1, PS Pss 2, PS Pss 3, PS Pss 4 and PS Pss 6	stratified systematic plot
4	Scrub-Shrub	PS Pss 1, PS Pss 2, PS Pss 3, PS Pss 4 and PS Pss 6	stratified systematic plot
5	Scrub-Shrub	PS Pss 1, PS Pss 2, PS Pss 3, PS Pss 4, PS Pss 5 and PS Pss 6	stratified systematic plot
2	Mixed forested riparian buffer	PS Rip 4	Belt transects
3	Mixed forested riparian buffer	PS Rip 1, PS Rip 2, PS Rip 3 and PS Rip 4	Belt transects
4	Mixed forested riparian buffer	PS Rip 1, PS Rip 2, PS Rip 3 and PS Rip 4	Belt transects

5	Mixed forested riparian buffer	PS Rip 1, PS Rip 2, PS Rip 3 and PS Rip 4	Belt transects
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*Based on monitoring these habitats for over 15 years, as woody vegetation expands aerial coverage, herbaceous vegetation will decrease, and bareground will increase as part of natural succession.

Sustainability

Sustainability standards are intended to ensure that the site protection, long term management plan and endowment are adequate and secured. Benchmarks in this standard are intended to provide a timeline for reviews of management plan, targets for endowment funding associated with credit release schedule, and ensure long term site protection.

Sustainability Performance Standards

- PS Sus 1. By the end of the 3rd growing season year, submit an updated long term management plan and endowment budget to DSL, Corps, and preferred steward, addressing section V. Maintenance and Monitoring of the Bank section F of MBI for approval.
- PS Sus 2. By the end of 4th growing season, submit evidence that 60% of estimated endowment has been deposited in an escrow account or transferred to a steward approved by DSL & Corps. This standard may be delayed, coinciding with credit releases if sales are below average.
- PS Sus 3. By end of the 5th growing season, submit evidence that 80% of estimated endowment has been deposited in an escrow account or transferred to a steward approved by DSL & Corps. This standard may be delayed, coinciding with credit releases if sales are below average.
- PS Sus 4. For the final credit release, submit the final site protection instrument after review & resolution of drafts by steward & agencies and submit evidence that 100% of the endowment amount approved by agencies has been transferred to the steward approved by DSL & Corps.

Table 14: Sustainability Performance Standards

Year	Sustainability Performance Standard	Monitoring Method
3 or sooner	PS Sus 1	Document verification
4	PS Sus 2	Document verification
5	PS Sus 3	Document verification
6	PS Sus 4	Document verification

7. MONITORING PLAN AND REPORTING

Vegetation Monitoring

The proposed monitoring layout is included in Figure 11, Exhibit M and follows protocols outlined in DSL’s Routine Monitoring Guidance for Vegetation, Interim Review Draft version 1.0, with deviations described below. Monitoring will be conducted using a stratified systematic plot method for the sampling points. Six Transect lines are oriented north/south and are located 280 feet apart with monitoring plots 300 feet apart. Transect T1 is inset 30 feet from the West property line to adequately represent the PSS area, with subsequent transects located 280 feet apart. The first plot at the south end of the T1 is located 50 feet north of the southern property boundary, while first plot on T2 is 100 feet north of property line, alternating in subsequent

transects. Each subsequent plot is located 300 feet apart, until the upland buffer area on T1 and T2. In order to gain additional plots in the buffer area to meet DSL's minimum sample size per habitat class, buffer distance between plots is 100 feet in upland. Plot numbering starts at the southwest corner on T1 and runs north to end of T1 and then south on T2, anticipating likely monitoring pattern, and advantage of entering data in successive order.

In the mixed forested riparian habitat class, belt transects were utilized to document vegetation. Three large trees were selected in representative areas of the entire unit as the starting point for each transect. The transects will be 3 feet wide and 150 ft long, with aspect oriented to pick up multiple habitats and illustrated on figure 11. Initial sampling will occur every 45 ft along transects with the ability to reduce sampling if additional plots are needed.

With very active management occurring throughout the monitoring period and advances in GPS technology, we propose marking each plot with fiberglass stakes which will not pose safety risk for equipment and hold legible markings for at least 4 years. If a stake is missing during annual monitoring, we propose to locate plots utilizing sub meter GPS equipment and re-mark/label plot for agency verification during site visits. The starting point for each belt transect is a mature tree marked with flagging which can be easily located with GPS.

The herbaceous sample plots in wetland and upland buffer will be 9 ft² quadrats (3' x 3'), placed to the northwest of each point, nested within a 100 ft² shrub sampling plot (10' x 10') centered on the same point. The absolute cover for each plot will be determined for each herbaceous species. If a plot includes bare substrate, the reason will be noted and the percent coverage of each plot included. Plant counts, in conjunction with herbaceous sampling, will be utilized in the scrub-shrub habitat class for the first 3 monitoring periods until the shrub component naturally expands, at which time absolute cover of each strata will be utilized. In addition to herbaceous sampling in the herbaceous habitat class, absolute cover of the shrub strata within the 100 ft² shrub sampling plot will be assessed to ensure no greater than 5% cover for the duration of the monitoring period. For the belt transects, plots will be 9 ft² quadrats (3' x 3') centered on the belt line. Plant counts, in conjunction with herbaceous sampling will be utilized the first monitoring period after shrub planting, then absolute cover of each strata will be utilized.

Trimble Terrasync software will be utilized for field data collection, coupled with Trimble Pathfinder Office for further analysis. Spread sheets will be utilized to group data for each habitat class for comparative analysis. The sample plot data will then be assessed according to the performance standards for diversity, percent cover of each species present, native/non-native and invasive status, bare substrate, and mean cover of each. The sample mean, standard error and 80% confidence interval will be reported for each performance standard to ensure the estimate reported is within ±10 units of the true population. Confidence interval will only apply to the herbaceous strata in shrub-scrub habitat class until woody plant counts are replaced with absolute cover. For the upland buffer and mixed forested riparian buffer, the sampling will focus on representative areas rather than confidence interval and will be verified by the annual agency walk-through inspections.

Based on anticipated hydrology and extensive experience monitoring similar habitats, formal regulatory vegetation monitoring will take place on two separate dates in spring each year. During the first year monitoring, all plots will be evaluated in early May. Data will be collected

on all plots with substantial cover, while plots which have little or no cover due to extended hydroperiod will be skipped until a second monitoring visit to be completed by mid-June. Ideally, this will lead to monitoring approximately half of the site during each visit, providing a better representation of both early and late season plants. The dates will be closely replicated throughout subsequent monitoring years until all performance standards are met, but not less than five years. After the site has matured with sample plot data repetitive and all performance standards met, a reduced monitoring effort will be implemented. DSL has to verify standards are being met as long as credits are available; if annual walk-through raises concerns that areas are not meeting standards, continued monitoring of those areas may be required.

Hydrology Monitoring

Site visits will be conducted throughout the winter and spring (November-May) to document fill dates and depth of inundation for at least 5 vernal pools and to ensure they are holding water for at least eight weeks from January-April. The east edge of the site will be patrolled at least twice in initial 2 winters after the soil profile is saturated to look for subsidence of ditch fills, tile blow-outs, or point-source flows into the Bellfountain roadside ditch. All berm tops and spillway areas, the toe of the lagoon slope, as well as the full length of the tax lot boundary along Bellfountain road will be monitored for evidence of significant erosion or sediment deposition shortly after major rain events in initial years, until vegetation is established. A delineation “lite” will be completed by year 5 with precipitation within the “normal range” but will likely take place after two years of consistent hydrology monitoring data.

Photo Monitoring

Nine photo monitoring points will be established to be representative of the site conditions and displayed on Figure 10, Exhibit M. Photo points 1-6 are all elevated locations and provide a good overview, with plots 7-9 located at start of belt transects to adequately represent the mixed forested riparian area and sloughs. Initial photos will be taken following construction to document as-built conditions and included in post-construction report. Annual photos will be taken during vegetation monitoring from each point with aspects corresponding to the best overview and included in annual monitoring report.

8. ADAPTIVE MANAGEMENT

The site will be managed as a diverse prairie complex with habitat components designed to complement habitats in limited supply within the surrounding landscape. Weekly monitoring will begin immediately after grading and continue for the first 18 months to understand changes in site hydrology before vegetation is fully established. Any deficiencies in hydrology will be addressed with additional grading the following summer, and permits will be maintained through this period to rectify problems. The planting plan is designed to be highly adaptable to each planting area, with many species spanning the spectrum from wetland prairie to upland prairie which is indicative of Willamette Valley prairie species. This diverse planting approach will ensure adequate establishment of every micro habitat within the site and provide sufficient adaptability to annual changes in environmental/biological conditions.

Scrub-Shrub planting is designed to increase habitat complexity, with herbaceous layer seeded to represent the early seral stages of this natural succession in prairies. The diversity of both woody species and herbaceous layer will ensure native cover throughout this area. Woody survival will be assessed before leaf drop after the first growing season, and likely cause of mortality

identified. Plants will be replaced based on adaptability to hydroperiod, and any measures needed to discourage predation. After the second growing season, breaks in woody cover will be considered natural based on site specific conditions and managed as herbaceous openings which are typical of this habitat and further increase habitat complexity.

Proposed management within existing habitats will focus on maintaining overstory structure and diversity, while reducing non-native invasive species. Workload is anticipated to be light in these areas after initial removal of invasive species. Experimentation with different grazing regimes and grazers will likely be the best long term management of these habitats and lead to increased native diversity.

Oregon Wetlands LLC will work with city of Philomath on any proposed changes to hydrologic patterns that currently convey surface waters to the site. Any additional tilling or ditching is unlikely since current drainage patterns have been similar since the earliest aerial photography and a simple cost/benefit analysis deems it impracticable. In the event this changes in the future, Oregon Wetlands LLC will work with the city to ensure outfalls still reach the bank site. Any adaptive management measures will be documented in annual monitoring reports.

9. MAINTENANCE PLAN

Table 13 highlights the mitigation schedule and maintenance plan. Following two years of site preparation and mass grading activities, the site will be monitored for desired hydrologic manipulations and initial vegetation establishment after planting. Additional fine grading will be completed if any wetland areas are not exhibiting desired hydrology and re-planted accordingly. With the goal of full establishment of native species, vegetation management in the early years of establishment will focus on control of all non-native species competing with that goal. Extra attention will be given to invasive species with a zero tolerance approach in the early years. As the site matures and reaches establishment goals, management will target the most aggressive non-native species which threaten structure and function, with a continued zero tolerance for invasive species. Once the site is through the establishment phase, management will again refocus on control of system altering species, and follow guidelines established in the long term management plan. Control options could include any or all of the following options: Selective herbicides, spot herbicide treatments, mowing, hand pulling, propane flaming, weed wiping, or hoeing.

Table 15: Mitigation schedule and maintenance

Task	Start	Completion	SP 2019	SU 2019	F 2019	W 2019	SP 2020	SU 2020	F 2020	W 2020	SP 2021	SU 2021	F 2021	W 2021	SP 2022	SU 2022	F 2022	W 2022	SP 2023	SU 2023	F 2023	W 2023	SP 2024	SU 2024	F 2024	W 2024	SP 2025	SU 2025	F 2025	W 2025		
2019	Broad spectrum Herbicide treatment	3/1/2019	11/30/2019																													
	Rough grading	7/1/2019	8/15/2019																													
	Fine grading/soil preparation	8/16/2019	9/15/2019																													
	As-built survey	9/15/2019	10/15/2019																													
	No-Till seeding	9/15/2019	11/15/2019																													
	Woody planting	11/15/2019	2/15/2019																													
2020	Seeding, germination analysis	11/1/2019	12/15/2019																													
	As-built report/seeding assessment	10/15/2019	12/31/2019																													
	Hydrology monitoring	11/15/2019	3/30/2020																													
	Selective Herbicide treatment	3/1/2020	11/30/2020																													
	Spot herbicide treatment/hand pull	3/1/2020	11/30/2020																													
	Vegetation monitoring	5/1/2020	7/15/2020																													
	Maintenance mow (if needed)	6/15/2020	8/1/2020																													
	Fine grading adjustments (if needed)	8/1/2020	8/30/2020																													
	Supplemental planting (if needed)	10/1/2020	11/30/2020																													
	First regulatory monitoring report	5/1/2020	12/31/2020																													
2021	Hydrology monitoring	11/15/2020	3/30/2021																													
	Selective Herbicide treatment	3/1/2021	11/30/2021																													
	Spot herbicide treatment/hand pull	3/1/2021	11/30/2021																													
	Vegetation monitoring	5/1/2021	7/15/2021																													
	Maintenance mow (if needed)	6/15/2021	8/1/2021																													
	Second regulatory monitoring report	5/1/2021	12/31/2021																													
2022	Hydrology monitoring	11/15/2021	3/30/2022																													
	Selective Herbicide treatment	3/1/2022	11/30/2022																													
	Spot herbicide treatment/hand pull	3/1/2022	11/30/2022																													
	Vegetation monitoring	5/1/2022	7/15/2022																													
	Maintenance mow (if needed)	6/15/2022	8/1/2022																													
	Third regulatory monitoring report	5/1/2022	12/31/2022																													
2023	Hydrology monitoring	11/15/2022	3/30/2023																													
	Selective Herbicide treatment (if needed)	3/1/2023	11/30/2023																													
	Spot herbicide treatment/hand pull	3/1/2023	11/30/2023																													
	Vegetation monitoring	5/1/2023	7/15/2023																													
	Wetland delineation "lite" and report	2/1/2023	12/31/2023																													
	Fourth regulatory monitoring report	5/1/2023	12/31/2023																													
2024	Selective Herbicide treatment (if needed)	3/1/2024	11/30/2024																													
	Spot herbicide treatment/hand pull	3/1/2024	11/30/2024																													
	Vegetation monitoring	5/1/2024	7/15/2024																													
	Fifth regulatory monitoring report	5/1/2024	12/31/2024																													
	Selective Herbicide treatment (if needed)	3/1/2025	11/30/2025																													
	Spot herbicide treatment/hand pull	3/1/2025	11/30/2025																													
2025	Vegetation monitoring	5/1/2025	7/15/2025																													
	Sixth regulatory monitoring report	5/1/2025	12/31/2025																													

10. SITE PROTECTION INSTRUMENT

Oregon Wetlands LLC will continue its partnership with the Wetlands Conservancy on all aspects of long term management and site protection. The long term management plan and funding agreement will be finalized during the bank development phase and follow format of recently approved documents for Evergreen and One Horse Slough mitigation banks. The conservation easement template and baseline documentation template will also be approved during initial development of the bank, but not executed until close to bank closure, and completed in the same calendar year. A deed restriction will be utilized to protect the bank site from initial bank construction until the conservation easement is executed.

11. LONG-TERM MANAGEMENT PLAN (LTMP)

The long-term management plan is included in Exhibit L. Sustainability performance standards are intended to ensure long-term protection and management of the site with an emphasis on endowment funding. Mid-course review of the long-term management plan and endowment funding is intended to ensure any unexpected changes during the establishment phase are addressed. By the end of the 3rd growing season, an updated long-term management plan and endowment budget will be submitted to DSL, Corps, and preferred steward, addressing section V. Maintenance and Monitoring of the Bank sub-section F of MBI for approval. By the end of 4th growing season, evidence that 60% of estimated endowment has been deposited in an escrow account or transferred to a steward approved by DSL & Corps will be submitted. Subsequent endowment funding may be delayed, coinciding with credit releases if sales are below average until sales resume to normal. Approval of the long-term stewardship package may occur as soon as performance standards have been met for 3 years and the percent of the endowment funded is equal to the percent of credits released. Thereafter, each incremental credit release must have an equivalent percent of the endowment funded. If the funding is via an endowment, it will be fully funded two years before handoff to the long-term steward, or an additional two years annual costs provided so the steward need not diminish the principal before it can grow.

Exhibit D
Anticipated Credits and Credit Release Schedule

Table 16: Credit generation

CREDIT CALCULATION SUMMARY					
Taxlot 1300: 126.64 acres	Area	Total Area	Mitigation Type	Ratio	Credits
South Field					
Hydric soil upland	14.182		Restoration	1:1	14.182
Farmed upland	13.829		Creation	1.5:1	9.219
City of Philomath Easement 45' x 1598.44' at south end of property	1.651		EASEMENT		0.000
SUBTOTAL		29.662			
Middle Field					
farmed wetland	23.451		Cropped Enhancement	2:1	11.726
farmed upland	14.713		Creation	1.5:1	9.809
SUBTOTAL		38.164			
North Field					
farmed wetland	22.246		Cropped Enhancement	2:1	11.123
farmed upland	19.442		Creation	1.5:1	12.961
upland prairie buffer	6.597		Buffer	10:1	0.660
mixed forested riparian buffer	6.979		Buffer	5:1	1.396
sloughs	1.665		Buffer	5:1	0.333
staging area	1.000		no credit	0	0.000
dirt road on east side	0.880		no credit	0	0.000
SUBTOTAL		58.809			
TOTAL	126.635	126.635	TOTAL CREDITS		71.408

CREDIT TYPE SUMMARY	
Restoration	14.182
Creation	31.989
Cropped Enhancement	22.849
Buffer (sloughs)	0.333
Buffer (upland prairie)	0.660
Buffer (riparian forest)	1.396

TOTAL 71.408

Table 17: Credit Release Schedule

% of Enhancement & buffer credits released (cumulative)	Number of Enhancement credits (cumulative)	% of Restoration & Creation credits released (cumulative)	Number of Restoration & Creation credits (cumulative)	Total Credit Release (cumulative)	Performance Standards to be met	Year
25%	6.309	25%	11.543	17.852	Approval of MBI, recording of deed restriction, subordination of any liens on title, and posting of financial assurance.	2019
5% (30%)	1.262 (7.571)	5% (30%)	2.309 (13.852)	3.571 (21.423)	Initial seeding/planting, as-built report	2019 or 2020
Up to 10% (40%)	2.524 (10.095)			2.524 (23.947)	1st growing season performance standards,	2020
Up to 10% (50%)	2.524 (12.619)			2.524 (26.471)	2 nd growing season performance standards	2021
Up to 10% (60%)	2.524 (15.143)			2.524 (28.995)	3 rd growing season performance standards, draft LTMP & steward acceptance submitted	2022
Up to 10% (70%)	2.524 (17.666)	Up to 40% (70%)	18.468 (32.320)	20.992 (49.987)	4 th growing season performance standards, post-construction delineation concurred*, 60% of endowment funded	2023
Up to 10% (80%)	2.524 (20.190)	10% (80%)	4.617 (36.937)	7.141 (57.128)	5 th growing season performance standards, 80% of endowment funded	2024
Up to 20% (100%)	5.048 (25.237)	20% (100%)	9.234 (46.171)	14.282 (71.408)	** DSL approval of any additional site protection; Co-chair Agencies approve updates to the LTMP & stewardship docs; 100% of endowment funded.	2025

* Credits >30% for wetland creation and restoration areas will be released after a delineation proves that wetland criteria have been achieved. If wetland acreage gains are apparent earlier, Co-chairs may make a partial release earlier.

**The release associated with approval of the long-term stewardship package may occur as soon as performance standards have been met for 3 years and the % of the endowment funded is equal to the % of credits released. Thereafter, each incremental credit release must have an equivalent % of the endowment funded. If the funding is via an endowment, it will be fully funded two years before handoff to the long-term steward, or an additional two years annual costs provided so the steward need not diminish the principal before it can grow.

Exhibit E

Service Area Map and Description

The proposed Marys River Mitigation Bank service area (Figure 12, Exhibit M) includes the Upper Willamette drainage basin (4th Field HUC 17090003)) below the 600 foot elevation contour. The 600 foot elevation within the Upper Willamette basin (4th Field HUC 17090003) represents a service area with ecological characteristics similar to conditions at the Marys River Mitigation Bank. The proposed service area is mostly agricultural land mixed with rural and urban areas of the southern Willamette Valley in Linn, Benton, Lane and Polk counties and includes Eugene, parts of Springfield, parts of Lebanon, and the urban growth boundaries of Albany, Brownsville, Coburg, Corvallis, Halsey, Harrisburg, Junction City, Lebanon, Millersburg, Monroe, Philomath, Tangent, and Veneta. Soil, hydrology, climate, land form, land use and plant communities are similar throughout the proposed service area.

Exhibit F
Property Protection Instrument

Oregon Wetlands LLC will continue its partnership with the Wetlands Conservancy on all aspects of long term management and site protection. Any updates to the long-term management plan and funding agreement will be completed during the bank development phase and follow format of recently approved documents for Evergreen and One Horse Slough mitigation banks. The conservation easement template and baseline documentation template will also be approved during initial development of the bank, but not executed until close to bank closure, and completed in the same calendar year. A deed restriction will be utilized for long-term site protection until the conservation easement is executed. The following 9 pages describing the draft deed restriction for illustration will be updated with site specific information.

Included in Exhibit L is a letter from Ester Lev, Executive Director, The Wetlands Conservancy documenting their interest to provide long term protection and stewardship for the Marys River Wetland Mitigation Bank.

Revised version for Mitigation Banks 5-8-2019

After recording, return to:
Oregon Wetlands LLC
6001 NW Gilmour Lane
Albany, OR 97321

BENTON COUNTY, OREGON 2020-591070
DE-DECL
Cnt=2 Stn=47 COUNTER1 01/30/2020 11:56:49 AM
\$45.00 \$5.00 \$11.00 \$62.00 \$10.00 \$153.00



I, James V. Morales, County Clerk for Benton County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

James V. Morales - County Clerk



**DECLARATION OF COVENANTS AND RESTRICTIONS and
ACCESS EASEMENT
FOR THE MARYS RIVER MITIGATION BANK
{Corps permit #NWP-2017-476, DSL permit # 60770-NP}**

THIS DECLARATION is made by Oregon Wetlands LLC, (“Declarant”).

RECITALS

1. Declarant is the owner of the real property described in Exhibit “A”, and further defined in Exhibit “F, attachment 1” attached hereto and by this reference incorporated herein (the “Property”), and has designated the Property as a compensatory mitigation site in accordance with Removal-Fill Permit # 60770-RF approved by the Oregon Department of State Lands (“Department”), and the Department of the Army Nationwide permit No. 27 (“Corps permit”) approved by the US Army Corps of Engineers (“Corps”).
2. Declarant desires and intends to provide for the perpetual protection and conservation of the wetland and waterway functions and values of the Property and for the management of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, restrictions, easements and other encumbrances hereinafter set forth, each and all of which is and are for the benefit of the Property;
3. The Department has accepted the mitigation plan for the Property under ORS 196.800 et seq, and the Corps has likewise accepted the mitigation plan under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act.

ARTICLE 1
DEFINITIONS

1.1 “Declaration” shall mean the covenants, restrictions, easement, and all other provisions set forth in the Declaration of Covenants and Restrictions.

1.2 “Declarant” shall mean and refer to Oregon Wetlands LLC, the owner of the Property, and the owner’s heirs, successors, and assigns.

1.3 “DSL permit” shall mean the final document approved by the Department that includes the mitigation plan and which formally establishes the mitigation site and stipulates the terms and conditions of its construction, operation and long-term management. A copy of the DSL permit may be obtained at the Department of State Lands, 775 Summer St. NE, Salem, OR 97301; phone 503-986-5200.

1.4 “Corps permit” shall mean the final document approved and issued by the Corps which includes the mitigation plan describing where and how the compensatory mitigation will be completed, monitored, managed, and maintained. A copy of the Corps permit associated with this Declaration may be obtained at the office of the US Army Corps of Engineers, Regulatory Branch, 333 SW First Ave., Portland, OR 97208; Phone 503-808-4373.

1.5 “Property” shall mean and refer to all real property subject to this Declaration, as more particularly set forth in Exhibit “F, attachment 1.”

ARTICLE 2
PROPERTY SUBJECT TO THIS DECLARATION

The Property described in Exhibit F, attachment 1 is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

ARTICLE 3
DECLARANT REPRESENTATIONS

Declarant represents and warrants that after reasonable investigation, and to the best of its knowledge, that no hazardous materials or contaminants are present that conflict with the conservation purposes intended; that the Property is in compliance with all federal state, and local laws, regulations, and permits; that there is no pending litigation affecting, involving, or

relating to the Property that would conflict with the intended conservation use; and that the Property is free and clear of any and all liens, claims, restrictions, easements and encumbrances that would interfere with the ability to protect and conserve the Property.

ARTICLE 4
GENERAL DECLARATION

Declarant, in order to discharge in part its obligations under the DSL permit and the Corps permit, declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and other encumbrances in this Declaration, in order that it shall remain substantially in its restored, enhanced, preserved, open and natural condition, in perpetuity. The terms and conditions of this Declaration shall be both implicitly and explicitly included in any subsequent transfer, conveyance, or encumbrance affecting all or any part of the Property. No modification or release of this Declaration will be effective unless authorized in writing by the Department and by the Corps. Any amendments must be signed by the Department and must be recorded in the official records of the county in which the Property is located.

ARTICLE 5
USE RESTRICTIONS, MANAGEMENT RESPONSIBILITIES,
AND RESERVED RIGHTS

Declarant is subject to any and all easements, covenants and restrictions of record affecting the Property.

A. USE RESTRICTIONS. Except as necessary to conduct, remediate or maintain the Property consistent with the DSL permit and the Corps permit, the actions prohibited by this covenant include:

1. There shall be no removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of any native vegetation in the Property, nor any disturbance or change in the natural habitat of the Property unless it promotes the mitigation goals and objectives established for the Property. Hazard trees that pose a specific threat to existing structures including fences or pedestrian trails may be felled and left on site.
2. There shall be no agricultural, commercial, or industrial activity undertaken or allowed in the Property; nor shall any right of passage across or upon the Property be

allowed or granted if that right of passage is used in conjunction with agricultural, commercial or industrial activity.

3. No domestic animals shall be allowed to graze or dwell on the Property (excepting prescribed grazing if identified in the mitigation plan to achieve specified vegetation goals) .
4. There shall be no filling, excavating, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock minerals or other materials, nor any storage nor dumping of ashes, trash, garbage, or of any other material, and no changing of the topography of the land of the Property in any manner once the wetlands are constructed unless approved in writing by the Department and by the Corps.
5. There shall be no construction or placing of buildings, mobile homes, advertising signs, billboards or other advertising material, vehicles or other structures on the Property.
6. There shall be no legal or de facto division, subdivision or partitioning of the protected Property.
7. Use of motorized off-road vehicles is prohibited except on existing roadways, and for monitoring, maintenance, and oversight purposes by the owner or his designee

B. MANAGEMENT RESPONSIBILITIES. Declarant shall take all reasonable action to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the mitigation purposes of the Property or that are otherwise inconsistent with this Declaration.

C. RESERVED RIGHTS. Declarant reserves all other rights accruing from Declarant's ownership of the Property including but not limited to the exclusive possession of the Property, the right to transfer or assign Declarant's interest in the same; the right to take action necessary to prevent erosion on the Property, to protect the Property from losing its wetland or waterway functions and values, or to protect public health or safety; and the right to use the Property in any manner not prohibited by this Declaration and which would not defeat or diminish the conservation purpose of this Declaration.

The Declarant specifically reserves the right to use the Property for the purposes of, which reserved rights are deemed to be consistent with the purposes enumerated in the permit.

- 1). Any activities related to the initial or corrective measures or for long term maintenance of the wetlands relating to construction, wildlife enhancement,

planting, replanting, maintenance, trash removal, invasive weed or dominant species control may be conducted to insure compliance with the mitigation plan, based upon Oregon's Removal-Fill Law and the requirements of the Department of State Lands.

- 2). The Protected Property may be used for educational purposes. Activities may include soil or plant sampling, wildlife monitoring or other "outdoor classroom" activities, to the extent that this use does not unduly alter the health of the protected area. The Protected Property may also be used for limited native seed harvesting.
- 3). Trails may be made through the upland habitat portions of the property using, wood chips or other products normally used for trail development and upkeep. These areas may be provided with benches and/or raised walkways.
- 4). Emergency crossing of the protected property by farm equipment or other large equipment is allowed. Restoration of the site will be conducted for any damages that are incurred to the protected property.
- 5). The right to undeveloped recreational uses including limited hunting, fishing, and hiking for fee or gratis.
- 6). The right to prevent trespass and control access by the general public.
- 7). The right to install wildlife blinds for viewing and hunting.

ARTICLE 6

ACCESS EASEMENT (RIGHT OF ENTRY)

Declarant hereby grants to the Department an easement and right of entry on the Property for the purpose of physically accessing the Property at all reasonable times to inspect the Property in order to monitor and to ascertain whether there has been compliance with this Declaration and the DSL permit. In the event that the Property lacks access via a public road or other common area, Declarant grants to the Department an easement over and across any other property of Declarant, the use of which is necessary to access the Property. The Declarant hereby grants to the Corps a right of entry to ascertain compliance with the Corps permit and this Declaration. If either the Department or the Corps finds it necessary to claim financial assurances to implement the mitigation plan or remediate performance failures, the Declarant hereby grants access and permission to the agencies and/or their agents to conduct such work.

ARTICLE 7
GENERAL PROVISIONS

A. NOTICE. The Department and the Corps shall be provided with a 60-day advance written notice of any legal action concerning this Declaration, or of any action to extinguish, void or modify this Declaration, in whole or in part. This Declaration, and the covenants, restrictions, easements and other encumbrances contained herein, are intended to survive foreclosure, tax sales, bankruptcy proceedings, zoning changes, adverse possession, abandonment, condemnation and similar doctrines or judgments affecting the Property. A copy of this recorded Declaration shall accompany said notice.

B. VALIDITY. If any provision of this Declaration, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Declaration, or the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

IN WITNESS WHEREOF, the undersigned being Declarant herein, has executed this instrument this 30 day of January, 2020.

Oregon Wetlands LLC
Benton County, Oregon

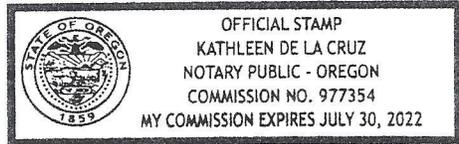
By: [Signature]
Title: Ray Fiori, Partner

STATE OF OREGON)
)
County of Benton)

ss:

This instrument was acknowledged before me on January 30, 2020 (date) by Kathleen De la Cruz (name of person) as Universal Associate (title) of Applicant firm's name of Benton County, Oregon.

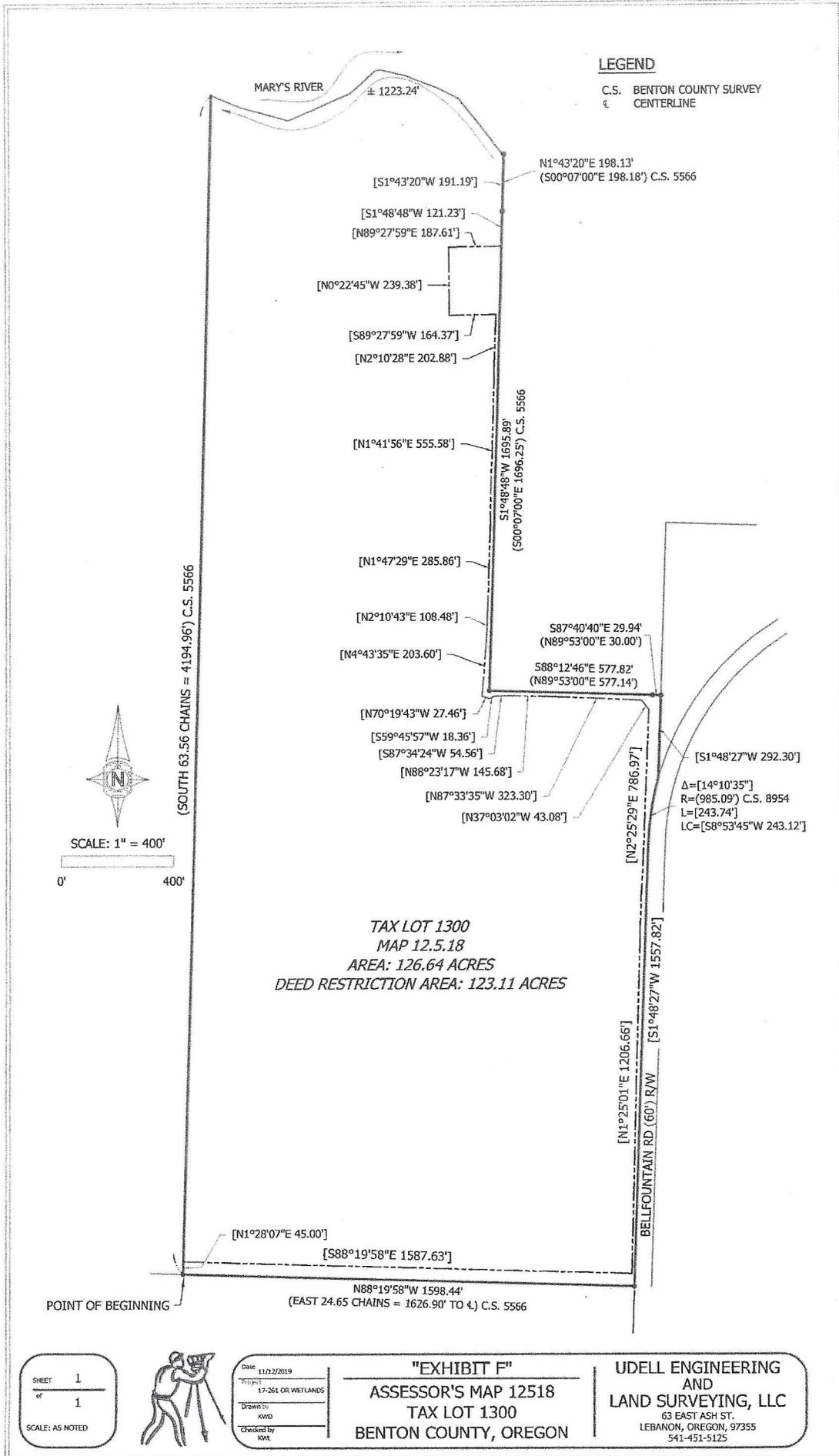
[Signature]
Signature of Notarial Officer
My Commission Expires: July 30, 2022



GRANTEE: The State of Oregon, Department of State Lands, approves Declarant's conveyance of an easement in favor of the Department.

By: [Signature]
Title: Mitigation Specialist
Date: Jan 10 2020

Attachment:
Exhibit A, legal description and plat map of tax lot
Exhibit F, Attachment I: Map and legal description of deed restricted area.



SHEET 1
 of 1
 SCALE: AS NOTED



Date: 11/12/2019
 Project: 17-261 OR WETLANDS
 Drawn by: RWD
 Checked by: KML

"EXHIBIT F"
 ASSESSOR'S MAP 12518
 TAX LOT 1300
 BENTON COUNTY, OREGON

UDELL ENGINEERING
 AND
 LAND SURVEYING, LLC
 63 EAST ASH ST.
 LEBANON, OREGON, 97355
 541-451-5125

Exhibit F, Attachment 1: Map and legal description of deed restricted area.

EXHIBIT "F"

AN AREA OF LAND LOCATED IN SECTIONS 18 AND 19, TOWNSHIP 12 SOUTH, RANGE 5 WEST OF THE WILLAMETTE MERIDIAN, BENTON COUNTY, OREGON DESCRIBED IN BENTON COUNTY DEED DOCUMENT NO. 2013-505444 AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF THAT PARCEL DESCRIBED IN DEED RECORDED IN BOOK 68, PAGE 564, BENTON COUNTY DEED RECORDS WHICH POINT IS 218.94 FEET N. 0°09' W. 93.55 FEET WEST, 767.71 FEET S. 86°38' WEST AND 614.02 FEET S. 0°04' EAST OF THE SOUTHWEST CORNER OF THE CHARLES BALES D.L.C. NO. 53, TOWNSHIP 12 SOUTH, RANGE 5 WEST, WILLAMETTE MERIDIAN, BENTON COUNTY, OREGON; THENCE S, 89°53' W. 607.14 FEET; THENCE N. 0°07' W. 2009.46 FEET TO THE CENTER OF THE CHANNEL OF MARY'S RIVER, THENCE ALONG THE CENTER OF SAID CHANEL N. 39°55'56" W. 182.68 FEET, N. 65°19'47" W. 99.69 FEET, N. 70°59'14" W. 138.66 FEET, N. 78°32'45" W. 106.98 FEET S. 81°46'14" W. 54.32 FEET, S. 4°12'27" W. 77.53 FEET, S. 46°10'42" W. 132.40 FEET, S. 64°47'20" W. 201.65 FEET, N. 76°32'44" W. 146.70 FEET AND N. 68°52'59" W. 146.28 FEET TO THE WEST LINE OF SAID PARCEL; THENCE SOUTH ALONG THE WEST LINE OF SAID PARCEL AND THE WEST LINE OF THAT PARCEL DESCRIBED IN DEED RECORDED IN BOOK 83, PAGE 565, SAID DEED RECORDS 63.56 CHAINS; THENCE EAST ALONG THE SOUTH LINE OF SAID LAST MENTIONED PARCEL 24.65 CHAINS; TO THE SOUTHEAST CORNER OF SAID LAST MENTIONED PARCEL ; THENCE N. 0°04' W. 2028.62 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM:

BEGINNING AT A 1/2 INCH IRON PIPE, SAID IRON PIPE MARKS THE SOUTHWEST CORNER OF THE LAND DESCRIBED IN BENTON COUNTY DEED DOCUMENT NO. 2013-505444; THENCE ALONG THE WEST LINE OF SAID LAND, NORTH 01°28'07" EAST 45.00 FEET; THENCE PARALELL TO AND 45.00 FEET NORTHERLY OF THE SOUTH LINE OF THE LAND DESCRIBED IN BENTON COUNTY DEED DOCUMENT NO. 2013-505444, SOUTH 88°19'58" EAST 1587.63 FEET, THENCE NORTH 01°25'01" EAST 1206.66 FEET; THENCE NORTH 02°25'29" EAST 786.97 FEET; THENCE NORTH 37°03'02" WEST 43.08 FEET; THENCE NORTH 87°33'35" WEST 323.30 FEET; THENCE NORTH 88°23'17" WEST 145.68 FEET; THENCE SOUTH 87°34'24" WEST 54.56 FEET; THENCE SOUTH 59°45'57" WEST 18.36 FEET; THENCE NORTH 70°19'43" WEST 27.46 FEET; THENCE NORTH 04°43'35" EAST 203.60 FEET; THENCE NORTH 02°10'43" EAST 108.48 FEET; THENCE NORTH 01°47'29" EAST 285.86 FEET; THENCE NORTH 01°41'56" EAST 555.58 FEET; THENCE NORTH 02°10'28" EAST 202.88 FEET; THENCE SOUTH 89°27'59" WEST 164.37 FEET; THENCE NORTH 00°22'45" EAST 239.38 FEET; THENCE NORTH 89°27'59" EAST 187.61 FEET TO A POINT ON THE EAST LINE OF THE LAND DESCRIBED IN BENTON COUNTY DEED DOCUMENT NO. 2013-505444, SAID POINT BEARS SOUTH 01°48'48" WEST 121.23 FEET FROM A 5/8 INCH IRON ROD; THENCE ALONG SAID EAST LINE, SOUTH 01°48'48" WEST 1574.66 FEET TO A 5/8 INCH IRON ROD; THENCE SOUTH 88°12'46" EAST 577.82 FEET TO A 5/8 INCH IRON ROD; THENCE SOUTH 87°40'40" EAST 29.94 FEET TO A 5/8 INCH IRON ROD; THENCE SOUTH 01°48'27" WEST 292.30 FEET MORE OR LESS TO A POINT ON THE WESTERLY RIGHT-OF-WAY OF BELLFOUNTAIN ROAD; THENCE ALONG SAID RIGHT-OF-WAY ON A 985.09 FOOT RADIUS CURVE TO THE LEFT FOR 243.74 FEET (CHORD BEARS SOUTH 08°53'45" WEST 243.12 FEET); THENCE SOUTH 01°48'27" WEST 1557.82 FEET MORE OR LESS TO THE SOUTHEAST CORNER OF THE LAND DESCRIBED IN BENTON COUNTY DEED DOCUMENT NO. 2013-505444; THENCE ALONG THE SOUTH LINE OF SAID LAND, NORTH 88°19'58" WEST 1598.44 FEET TO THE POINT OF BEGINNING.

BEARINGS ARE BASED ON NAD83: OREGON STATE PLANE (NORTH ZONE)

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JUNE 12, 2013
KYLE W. LATIMER
80442

EXPIRES 12-31-2020

Udell Engineering & Land Surveying, LLC
63 East Ash Street, Lebanon, OR 97355
Ph: 541-451-5125 • Fax: 541-451-1366

Exhibit G



Oregon Wetlands LLC
6001 NW Gilmour Lane
Albany, Oregon 97321
Phone: (541) 760-1777

Marys River Mitigation Bank

HGM Classes: Depressional, Flats, Riverine

Cowardin Classes: PEM, PSS, PFO, Riverine

Credit Sales Receipt

Date:

Purchased by:

Project Coordinator:

Project Name:

Project Location:

Credits Purchased:

Acres of wetland impacts:

HGM=

Cowardin class=

DSL Permit #:

Corps Permit #:

Impact HUC (10 digit HUC) #:

Purchaser has paid the Bank the agreed upon price for the number of wetland mitigation credits noted above.

By: _____

Ray Fiori

Exhibit H

Table 18: Sample Credit Ledger

<i>DATE</i>	<i>NAME</i>	<i>LOCATION</i>	<i>DSL</i>	<i>CORP</i>	<i>ADDED</i>	<i>HGM/COWARDIAN</i>	<i>SOLD</i>	<i>REFUNDED</i>	<i>SUSPENDED</i>	<i>BALANCE</i>
12/30/2019	CORPS/DSL INITIAL RELEASE-30%		Permit Number		21.42					21.42
08/12/2019	Oregon Wetlands LLC	T12S, R05W, sect. 18	60770- RF	NWP- 2017-476		Flats/PEM	0.19			21.23
xx/xx/xxxx	CORPS/DSL 2 nd RELEASE-5%				x.xx					x.xx

Exhibit I Definitions

Where available, the following may contain both Corps regulatory definitions and DSL definitions from statute or rules. It is the Co-chair Agencies' intent that the MBI be interpreted, to the extent possible, using the Corps-DSL joint definition.

ADAPTIVE MANAGEMENT - Corps definition: the development of a management strategy that anticipates likely challenges associated with compensatory mitigation projects and provides for the implementation of actions to address those challenges, as well as unforeseen changes to those projects.

BUFFER – Corps definition: An upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses. DSL definition: BUFFER means an area immediately adjacent to or surrounding a water of this state that is set aside to protect the water of this state from conflicting adjacent land uses and to support ecological functions. The buffer area may include upland, wetland, or other waters.

CO-CHAIR AGENCIES – The Corps and DSL, whose representatives make decisions regarding bank establishment, operation, and use. The USFWS or NMFS may be CO-CHAIR AGENCIES if a bank also serves to mitigate for losses to species listed, or habitats designated, under the Endangered Species Act. Notwithstanding any rights or obligations described in the MITIGATION BANK INSTRUMENT, each CO-CHAIR AGENCY reserves all rights and authorities to implement their respective statutory missions.

CREATION – See Corps definition for ESTABLISHMENT. DSL definition: to convert an upland area that has never been a water of this state to a water of this state.

CREDIT – Corps definition: A unit of measure (e.g., a functional or areal measure or other suitable metric) representing the accrual or attainment of aquatic functions at a compensatory mitigation site. The measure of aquatic functions is based on the resources restored, established, enhanced, or preserved. DSL definition: CREDIT means the measure of the increase in the functions and values of the water resources of this state achieved at a mitigation bank site.

DEBIT – Corps definition: A unit of measure (e.g., a functional or areal measure or other suitable metric) representing the loss of aquatic functions at an impact or project site. The measure of aquatic functions is based on the resources impacted by the authorized activity. DSL definition: a DEBIT also may represent the reduction of aquatic functions at an impact or project site.

DEGRADED – DSL definition: refers to a condition of a water of this state with diminished functions and values. For a wetland, degradation must include hydrologic manipulation (such as diking, draining, or filling) that demonstrably interferes with the normal functioning of wetland processes.

ENDOWMENT FUND - A dedicated, non-wasting account to be established by the SPONSOR concurrent with the operation of the MBI, and which shall generate interest to be used exclusively for the ongoing operation, use, and management of the mitigation bank for purposes consistent with the MBI, associated conservation easement, and long-term management plan.

ENHANCEMENT – Corps definition: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area. DSL definition: ENHANCEMENT means to improve the condition and increase the functions and values of an existing degraded wetland or other water of this state, and additional criteria in OAR 141-085-0694.

ESTABLISHMENT (Also known as CREATION) – Corps definition: The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. ESTABLISHMENT results in a gain in aquatic resource area and functions.

ESTABLISHMENT PERIOD - The timeframe between approval of an MBI and completion of credit sales, or Bank closure. During the ESTABLISHMENT PERIOD the Bank Sponsor constructs, maintains, and monitors performance according to the MBI.

FINANCIAL ASSURANCE INSTRUMENT – A financial instrument, such as a surety bond, assignment of deposit, escrow account, casualty insurance, irrevocable letter of credit, or other appropriate instrument accessible to a designated beneficiary, used to ensure a high level of confidence that the compensatory mitigation project will be successfully constructed, monitored and maintained, in accordance with applicable performance standards as set forth in the MBI. A FINANCIAL ASSURANCE ensures that sufficient funds will be available to complete or replace a Bank Sponsor’s obligations in the event that the Sponsor proves unable or unwilling to meet those obligations. The amount and the type of instrument must be approved at the time of MBI approval.

FUNCTIONS – Corps definition: The physical, chemical, and biological processes that occur in aquatic ecosystems. DSL definition: “Functions and Values” are those ecological characteristics or processes associated with a water of this state, and the societal benefits derived from those characteristics. The ecological characteristics are “functions” whereas the associated societal benefits are “values. For example, retention and detention of water is a function.

INTERAGENCY REVIEW TEAM (IRT) – An interagency group of federal, state, tribal, and/or local regulatory and resource agency representatives that reviews documentation for and advises the Corps district engineer and DSL on the establishment and management of a mitigation bank or an in-lieu fee mitigation program. The Corps and DSL are the CO-CHAIR AGENCIES of the IRT and the final decision makers.

LEDGER – A cumulative accounting spreadsheet of all credits released and sold.

LONG-TERM MANAGEMENT PERIOD – The timeframe that begins after Bank closure and runs in perpetuity, when the resource gains are protected and managed.

MITIGATION BANK – Corps definition: A site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing compensatory mitigation for impacts authorized by Department of Army permits. In general, a MITIGATION BANK sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the MITIGATION BANK SPONSOR. The operation and use of a MITIGATION BANK are governed by a MITIGATION BANKING INSTRUMENT. DSL definition: "Mitigation Bank" or "Bank" means a site created, restored, enhanced or preserved in accordance with ORS 196.600 to 196.655 to compensate for unavoidable adverse impacts to waters of this state due to activities which otherwise comply with the requirements of ORS 196.600 to 196.905.

MITIGATION BANK INSTRUMENT (or MBI) – Corps definition: The legal document for the establishment, operation, and use of a mitigation bank. DSL definition: MBI means the legally binding and enforceable agreement between the Department (DSL) and a mitigation bank SPONSOR that formally establishes the mitigation bank and stipulates the terms and conditions of its construction, operation, use, and long-term management.

PERFORMANCE STANDARDS – Observable or measurable physical (including hydrological), chemical and/or biological indicators used to determine if a mitigation project is meeting its objectives. Credit releases are linked to achievement of minimum PERFORMANCE STANDARDS.

PRESERVATION – Corps definition: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. PRESERVATION does not result in a gain of aquatic resource area or functions. DSL definition: to permanently protect waters of this state having exceptional ecological features, and additional criteria in OAR 141-085-0694.

RE-ESTABLISHMENT - Corps definition: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. RE-ESTABLISHMENT results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

REHABILITATION - Corps definition: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural historic functions to a degraded aquatic resource. REHABILITATION results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

RESTORATION – Corps definition: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, RESTORATION is divided into two categories: RE-ESTABLISHMENT (former wetland) and REHABILITATION (degraded). DSL definition: to reestablish a former water of this state.

SERVICE AREA – Corps definition: The geographic area within which impacts can be mitigated at a specific mitigation bank, as designated in the MBI, or at an in-lieu fee (ILF) mitigation site as specified in an ILF program instrument. DSL definition: SERVICE AREA means the boundaries set forth in a mitigation bank instrument that include one or more watersheds identified on the United States Geological Survey, Hydrologic Unit Map - 1974, State of Oregon, for which a mitigation bank provides credits to compensate for adverse effects from project developments to waters of this state. Service areas for mitigation banks are not mutually exclusive.

SERVICES (Also known as VALUES) – Corps definition: The benefits that human populations receive from functions that occur in ecosystems. DSL definition: “Functions and Values” are those ecological characteristics or processes associated with a water of this state, and the societal benefits derived from those characteristics. The ecological characteristics are “functions” whereas the associated societal benefits are “values. For example, reduction of flood damage is a value or ecological service.

SPONSOR – Corps definition: Any public or private entity responsible for establishing, and in most circumstances, operating a mitigation bank or in-lieu fee program. DSL definition: the SPONSOR is the person or single legal entity that has the authority and responsibility to fully execute the terms and conditions of a MBI, unless specified otherwise in the MBI.

STEWARDSHIP FUNDING AGREEMENT – An agreement between the bank SPONSOR and LONG-TERM FUND MANAGER establishing the long-term funding mechanism and describing the purpose, roles, and responsibilities in managing the long-term funding mechanism to ensure that long-term management occurs, and that the long-term funding mechanism remains available during any changes of ownership or stewardship.

VALUES – See SERVICES.

WATERSHED APPROACH – An analytical process for making compensatory mitigation decisions that support the sustainability or improvement of aquatic resources in a watershed. It involves consideration of watershed needs, and how locations and types of compensatory mitigation projects address those needs. A landscape perspective is used to identify the types and location of compensatory mitigation projects that will benefit the watershed and offset losses of aquatic resource services caused by activities authorized by Department of Army and DSL permits. The WATERSHED APPROACH may involve consideration of landscape scale, historic and potential aquatic resource conditions, past and projected aquatic resource impacts in the watershed, and terrestrial

connections between aquatic resources when determining compensatory mitigation requirements for Department of Army and DSL permits.

WATERSHED PLAN – A plan developed by federal, tribal, state, and/or local government agencies or appropriate non-governmental organizations, in consultation with relevant stakeholders, for the specific goal of aquatic resource restoration, establishment, enhancement, and preservation. A WATERSHED PLAN addresses aquatic resource conditions in the watershed, multiple stakeholder interests, and land uses. WATERSHED PLANS may also identify priority sites for aquatic resource restoration and protection.

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Exhibit J
Financial Assurances

A financial assurance will be provided by the sponsor to DSL and Corps to ensure that the bank will be constructed, monitored and maintained and meet the performance standards in accordance with this MBI. The financial assurance will be broken into two categories to cover the pre-construction timeframe from initial release of credits, until submission of as-built report and post-construction timeframe which will include a construction contingency and all operations and maintenance to complete the project.

Pre-Construction:

To ensure the construction phase of the bank is completed, all credit sale revenue will be deposited directly into an “Assignment of Deposit” account for any sales completed before submission of as-built report. To document compliance, the sponsor will send agencies the credit sales receipt and at the same time, a copy of the deposit ticket showing the account balance. Once construction is completed, and as-built report is submitted, the assignment of deposit will be updated to reflect the initial post-construction surety amount.

Post-Construction:

The tables below provide estimates for the total project implementation costs that have not been fully funded, and a release schedule for the corresponding financial assurance to ensure the project will be successfully completed, in accordance with its performance standards and all other requirements of the MBI. Costs are based on real market value, and each year represents a 12 month period starting January 1st each year following implementation. The release schedule is based on report submittals for annual performance benchmarks, with the remaining tasks represented in the financial assurance carried forward. The annual amount after the establishment period is intended to continue a high level of maintenance and associated regulatory monitoring until bank closure, at which time the long term management plan and funding agreement will be implemented. Since the long term funding endowment will be funded annually through credit sales and is also tied to benchmarks for credit releases, it is not included in cost estimates.

Table 19: Estimated Post-Construction Project Costs

Tasks	Post-Construction	Year 2	Year 3	Year 4	Year 5	Year 6	Annual	Total for Project	Notes
Grading	\$7,500.00							\$7,500.00	10% Contingency
Seed/seeding	\$6,000.00	\$1,500.00						\$7,500.00	10% Contingency
Plants/planting	\$11,000.00	\$1,100.00						\$12,100.00	Includes deposit paid
Monitoring/reporting	\$9,333.00	\$9,333.00	\$11,000.00	\$5,000.00	\$5,000.00	\$5,000.00	\$4,000.00	\$48,666.00	Includes delin "lite"
Maintenance	\$27,000.00	\$27,000.00	\$20,000.00	\$15,000.00	\$11,000.00	\$9,000.00	\$6,000.00	\$115,000.00	all
10% Contingency	\$6,083.30	\$3,893.30	\$3,100.00	\$2,000.00	\$1,600.00	\$1,400.00	\$1,000.00	\$19,076.60	
Total for year	\$66,916.30	\$42,826.30	\$34,100.00	\$22,000.00	\$17,600.00	\$15,400.00	\$11,000.00	\$209,842.60	
Surety amount	\$209,842.60	\$142,926.30	\$100,100.00	\$66,000.00	\$44,000.00	\$26,400.00	\$11,000.00		Amt needed/year

*We are proposing to fund endowment with each credit sale, with benchmarks identified in credit release schedule.

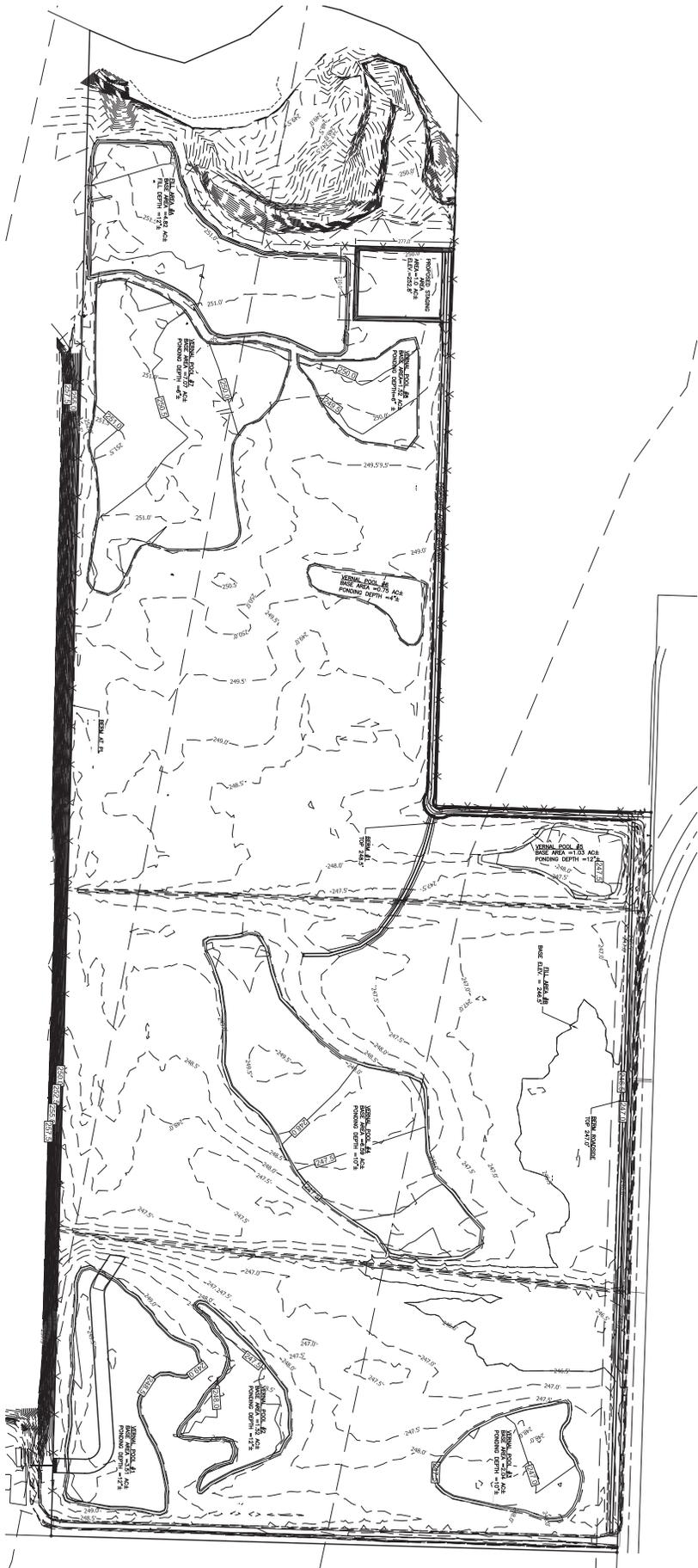
Table 20: Financial Assurance Release Schedule

Assurance Amount	Release Benchmark	Est. Date of Release	Amount Released	Total Remaining
All Credit Sales	As-Built Report	December 2019	TBD	\$209,843.00
\$209,843.00	1st Monitoring Report	December 2020	\$66,916.00	\$142,926.00
\$142,926.00	2 nd Monitoring Report	December 2021	\$42,826.00	\$100,100.00
\$100,100.00	3 rd Monitoring Report/Delineation "lite"	December 2022	\$34,100.00	\$66,000.00
\$66,000.00	4 th Monitoring Report	December 2023	\$22,000.00	\$44,000.00
\$44,000.00	5 th Monitoring Report	December 2024	\$17,600.00	\$26,400.00
\$26,400.00	6 th Monitoring Report	December 2025	\$15,400.00	\$11,000.00
\$11,000.00	Bank Closure	2030	\$11,000.00	

Exhibit K

Grading Plan

The grading plan is shown on the following 5 pages.



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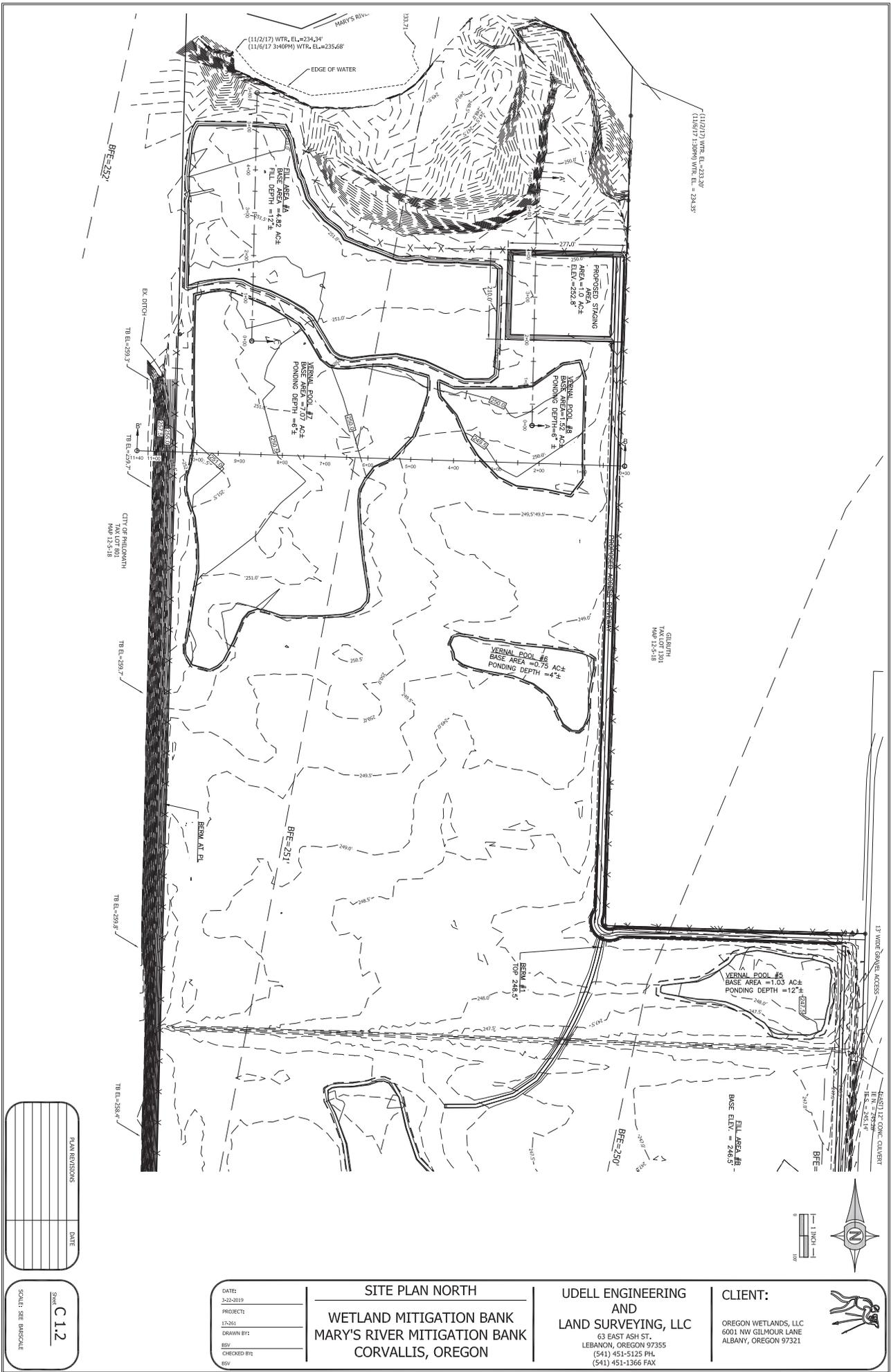
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 PROJECT: 17-261
 DRAWN BY: BSV
 CHECKED BY: BSV

OVERALL SITE
WETLAND MITIGATION BANK
MARY'S RIVER MITIGATION BANK
CORVALLIS, OREGON

UDELL ENGINEERING AND LAND SURVEYING, LLC
 63 EAST ASH ST.
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CLIENT:
 OREGON WETLANDS, LLC
 6001 NW GILMOUR LANE
 ALBANY, OREGON 97321





REV.	REVISIONS	DATE

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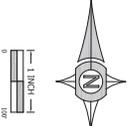
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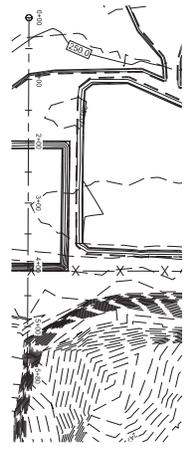
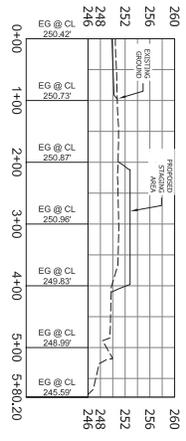
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 PROJECT: 17-261
 DRAWN BY: BSV
 CHECKED BY: BSV
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SITE PLAN NORTH
WETLAND MITIGATION BANK
MARY'S RIVER MITIGATION BANK
CORVALLIS, OREGON

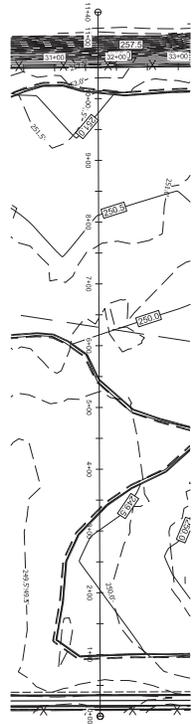
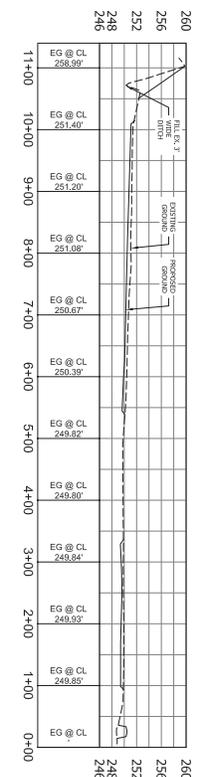
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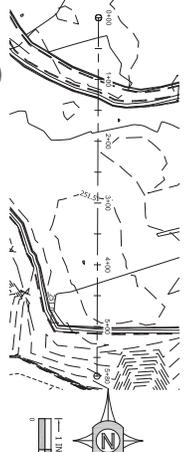
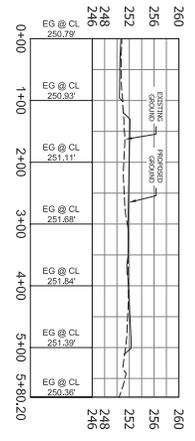




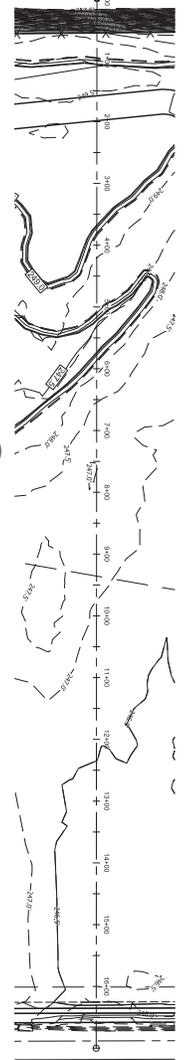
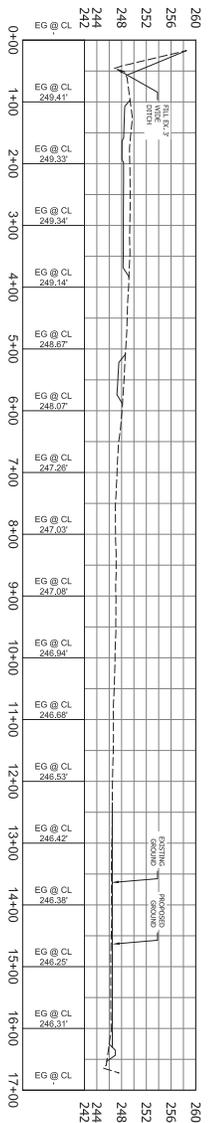
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2 SECTION BB'
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3 SECTION CC'
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4 SECTION DD'
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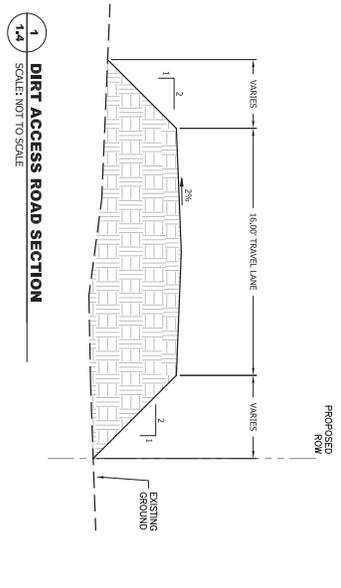
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PROJECT: 17-261
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PROFILES AND SECTIONS
WETLAND MITIGATION BANK
MARY'S RIVER MITIGATION BANK
CORVALLIS, OREGON

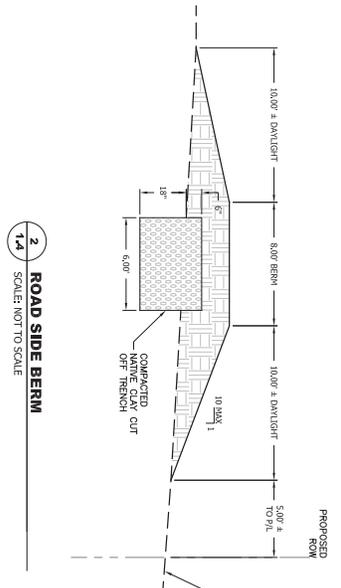
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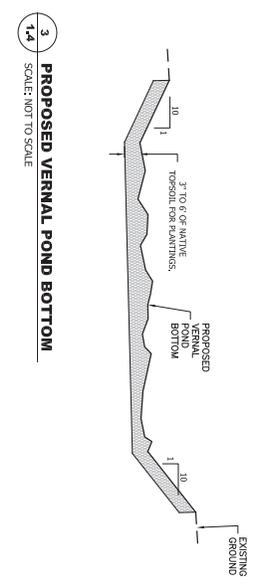




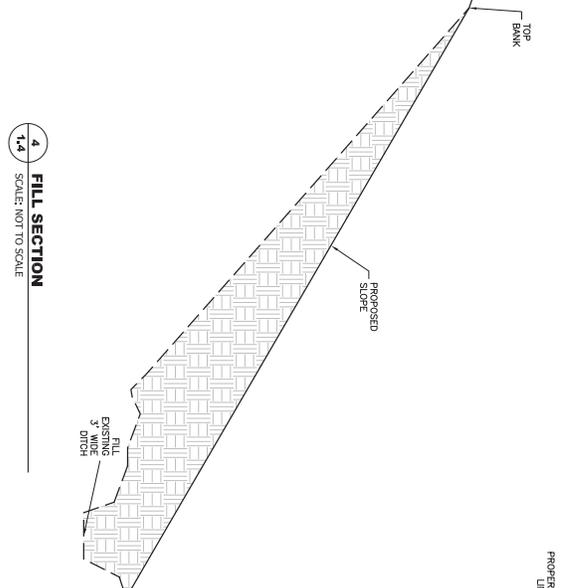
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4
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FILL SECTION
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REVISIONS	DATE

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SCALE: SEE DIMSCALE

DATE: 3-22-2019
PROJECT: 17-261
DRAWN BY: BSW
CHECKED BY: BSW

DETAILS
WETLAND MITIGATION BANK
MARY'S RIVER MITIGATION BANK
CORVALLIS, OREGON

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ALBANY, OREGON 97321



Exhibit L

Long-Term Management Plan

The long-term management plan is included in the following 16 pages.

Marys River Wetland Mitigation Bank

Bellfountain Road

Philomath, Oregon

Long-Term Management Plan

by

Oregon Wetlands LLC

March 2019

Revised May 2020

Via Corps May 4, 2020 LTMP template

Table of Contents

1. Introduction	1
A. Purpose of Mitigation Bank Establishment.....	1
B. Purpose of this Long-term Management Plan	1
C. Long-term Management Roles and Responsibilities	3
This LTMP defines the following roles in long-term management of the Bank site:	3
2. Anticipated Long-Term Site Conditions and Threats	3
<i>HYDROLOGY</i>	4
<i>HABITAT</i>	4
<i>WILDLIFE</i>	4
<i>MAN MADE STRUCTURES</i>	4
<i>Objective 1</i>	4
<i>Objective 2</i>	4
<i>Objective 3</i>	4
<i>Objective 4</i>	5
<i>Objective 5</i>	5
B. Conservation Threats, Management Limitations and Catastrophic Events.....	5
i. Conservation Threats	5
ii. Management Limitations	5
There is a city waterline easement along the south edge of the Bank; this area is planted to grassy vegetation that can be readily re-established if maintenance of the waterline is needed.	5
iii. Catastrophic Events.....	5
3. Management, Maintenance, and Monitoring.....	6
A. Resource Management.....	6
B. Maintenance and Monitoring:	6
i. Infrastructure Damage and Vandalism	6
ii. Sustaining Native Plant Communities	7
iii. Sustaining Wildlife Habitats.....	7
iv. Administration	7
4. Long-term Funding and Task Prioritization.....	8
A. Funding	8
5. Transfer and Amendments	11
A. Transfer and Assignment of Long-Term Management Responsibilities.....	11
B. Amendments.....	11

LIST OF TABLES

Table 1: Roles and Responsibilities 3
Table 2: Anticipated Ongoing Operations and Maintenance Costs 9

LIST OF FIGURES

Figure 1: Location Map
Figure 2: Site plan map with features and infrastructure

ATTACHMENT

The Wetlands Conservancy - Letter of Intent

1. Introduction

A. Purpose of Mitigation Bank Establishment

A mitigation bank (Bank) is an aquatic resource area created, restored, enhanced, or preserved to provide compensatory mitigation for unavoidable losses of wetlands and other aquatic resources. Both the aquatic resource losses and the compensatory mitigation gains in Oregon are authorized by the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act, and its implementing regulations at 33 C.F.R. § 332, as well as by the Oregon Department of State Lands (DSL) under Oregon's Removal-Fill Law at Oregon Revised Statutes (ORS) 196.600-196.990 and Oregon Administrative Rules (OAR) 141-085.

The Marys River Mitigation Bank was established by a Mitigation Bank Instrument between the landowner and bank Sponsors Ray Fiori, Marvin Gilmour, and Alton Sullivan (Oregon Wetlands LLC), the Oregon Department of State Lands (DSL), and the U.S. Army Corps of Engineers (USACE) to compensate for unavoidable impacts to aquatic resources. This agreement required the execution of a Long Term Management Plan (LTMP) to sustain the aquatic functions and services provided by the bank in perpetuity. The Bank site consists of 126.64 acres of property (**Figure 1**) which includes approximately 110.48 acres of wetland, 6.6 acres upland prairie, 7 acres riparian forest and 1,131 linear feet of River frontage. The Bank is located on the west side of the Bellfountain Road, just south of Marys River in Township 12 South, Range 5 West, Section 18&19, Tax Lot 1300, Longitude - 123.341000°W and Latitude 44.522889°N.

The Bank Sponsor, Oregon Wetlands LLC, is responsible for all elements of the Bank during the establishment period while the Bank is built and developed in compliance with performance standards, up to the time of Bank closure and afterward as well. The specific terms of this Long-Term Management Plan (LTMP) shall continue to govern activities after Bank closure unless and until it is amended, because the Corps requires that the MBI contain a complete and final LTMP. However, Oregon Wetlands LLC anticipates that they will grant a Conservation Easement and Management Endowment to The Wetlands Conservancy (TWC) before Bank closure, via an amendment of this MBI to be approved by the Co-chair Agencies. This LTMP may at that time be updated for coordination and consistency with the package of stewardship documents, including a Conservation Easement Agreement and Endowment Agreement.

B. Purpose of this Long-term Management Plan

The purpose of this LTMP is to ensure that the conservation values of the Marys River Preserve (Preserve) are managed, monitored, and maintained in perpetuity after all the credits have been sold. This LTMP identifies objectives, priorities, and tasks necessary to manage and maintain the preserve and is the basis for the endowment. The site protection Instrument, a recorded Restrictive Covenant and Access Easement, identifies purposes, prohibited uses, notices to the Co-chair Agencies, and other provisions. The Sponsor intends, in a few years, to supplement and supersede this site protection with a Conservation Easement, which will convey additional interests to the holder. The desired future condition of the preserve is to sustain the restored, created, enhanced, and preserved aquatic functions and natural processes resulting from the mitigation project as enumerated in objectives.

DSL and the Corps require that the MBI provide a LTMP to ensure that the mitigation gains are

sustained in perpetuity. The LTMP sets forth the necessary provisions to ensure the Bank is managed and maintained in perpetuity after bank closure or default closure of the bank is necessary, and a mitigation obligation remains. This includes the long-term management strategy, identity of the party responsible for long-term maintenance, a plan for a funding of these activities, ownership arrangements, and an appropriate permanent site protection instrument with right of entry conveyed to Corps and DSL. The necessary site protection instrument must grant sufficient interest for the long-term manager to execute the terms of this plan and the Co-Chair Agencies to enforce the provisions of the instrument. Some of the components of the LTMP are mirrored in other sections of the MBI and long-term site protection instrument. However, it is the intent of this LTMP to provide a concise statement of the requirements for long-term management of the site in perpetuity.

i. Timing. The Bank is expected to operate over a period of 5 or more years during which time the Sponsor will construct, maintain, monitor, and report on how the site meets the specified performance standards. During this time, DSL and the Corps will verify performance standards and other criteria for release of credits according to the schedule in Exhibit D; or delay release until standards are met. When all standards, milestones, and other criteria have been met, the final increments of credits will be released. During the establishment period, the Co-Chair Agencies may reduce or waive monitoring requirements upon a determination that the Bank has achieved its performance standards. Upon Bank closure, the Bank enters the long-term management period and performance monitoring is no longer required.

ii. Long-Term Manager. The Sponsor shall be the responsible party for implementing every element of this LTMP unless or until the Sponsor transfers the responsibility to an appropriate entity and the transfer is in accordance with the terms of the MBI and the terms of this LTMP. Any transfer must be approved in writing by DSL and the Corps, be accompanied by grant of any necessary real estate interest, to an entity willing to accept this role, and provide any necessary funding as set forth in this plan. As part of their review, the Co-chair Agencies will evaluate the qualifications and capacity of the proposed long-term manager roles relative to the alternatives potentially available. Roles and responsibilities are further defined in **Table 1** below.

iii. Site Protection. Site Protection is addressed in Exhibits B and F of the MBI. Exhibit B includes proof of Sponsor's ownership, assurance that any encumbrances have been subordinated, and a warranty that the title will remain free of such encumbrances that would conflict with the purposes of the Bank. The long-term site protection instrument, Exhibit F, is a critical companion to this LTMP as it includes land use restrictions to protect the site. The long-term site protection instrument, Restrictive Covenants and an access easement conveyed to DSL and to the Corps, shall be recorded with the County Assessor prior to the first credit release. Additional site protection instruments that are consistent with the purpose of the LTMP may be added via amendment.

iv. Long-term Management Tasks and Funding. This LTMP describes the conditions anticipated upon bank closure and the aquatic resource functions and values to be conserved, as well as the known and potential threats to conservation of the aquatic resource functions and values established at the bank site. The plan identifies ongoing maintenance tasks needed to address these threats and sustain the gains of aquatic resources and the natural processes that support them, cost estimates for these tasks, and the funding mechanism that will be used to ensure there will be funds available to conduct these tasks in to perpetuity.

C. Long-term Management Roles and Responsibilities

This LTMP defines the following roles in long-term management of the Bank site:

Table 1: Roles and Responsibilities

Entity	Role in Long-Term Management
Long-Term Land Manager	Implements land management to sustain the Conservation Values identified in this LTMP, consistent with the site protection instrument, through the conservative use of the long-term funding mechanism to conduct the tasks necessary to sustain those Conservation Values.
Long-Term Fund Manager	Manages, protects, invests, and responsibly spends the long-term funding mechanism to provide necessary income to fund annual long-term maintenance tasks.
Conservation Easement (CE) Holder	If a CE is selected as site protection, the CE Holder monitors the site for compliance with terms of the CE and may take legal action to protect the site if necessary. A CE Holder must qualify under ORS 217.715.
Landowner	Enjoys uses of the land consistent with terms and purposes of the site protection instrument, retains all rights & responsibilities not expressly conveyed under that instrument.
Regulatory Agencies	DSL and the Corps long-term roles and responsibilities are defined by their respective statutes. Nothing in this document shall change either agencies jurisdiction or authority under applicable state and federal laws.

This LTMP provides that the Bank Sponsor will be the Landowner, Long-term Land Manager, Long-term Fund Manager until and unless this LTMP is amended with approval of the Co-chair Agencies.

At the time of Bank start-up, the Sponsor anticipates that TWC will manage the Preserve property in perpetuity consistent with the Conservation Easement, and the long-term management plan. Long-term management tasks would be funded through an endowment account owned and managed by TWC exclusively for this purpose. The landowner will remain responsible for all duties of land ownership not expressly conferred to TWC via the Conservation Easement Agreement and will remain the party responsible to pay property taxes.

This management plan outlines the long-term site goals, assumed management and stewardship tasks and costs, and a monitoring strategy that requires annual review of both on the ground changes and the long-term management goals. Each year after the annual monitoring, the long-term land manager will evaluate if the tasks for the following year and long-term restoration strategies should be revised or adapted.

2. Anticipated Long-Term Site Conditions and Threats

A. Conditions Anticipated Upon Bank Closure, Aquatic Resources Functions and Values to be Conserved.

The mitigation design anticipates construction of topography and water regimes, and establishment of native vegetation that together optimize several functions and values of aquatic resources characteristic of the setting and ecoregion, as shown in **Figure 2**, mitigation

site plan. The following wetland and waterway ecological objectives and outcomes from the Mitigation Banking Instrument describe the “Conservation Values” of the Bank and shall guide the long-term management:

HYDROLOGY

Hydrology for the site consists of direct precipitation, surface flows from adjacent property to the west, and flood waters from the Marys River during major flood events. In addition, berms will serve to increase the hydroperiod, storing surface waters to varying depths to increase diversity of both plant assemblages and wildlife habitats. Once the soils are saturated, pools are full, and berms are at full capacity, additional water will flow off-site. Flat landform, increased microtopographic variation, denser ground cover, larger ponded areas and constricted outlet will increase friction that will delay runoff and increase water storage functions and values.

HABITAT

The Bank site consists of emergent marsh, wet prairie, forested wetland, scrub shrub wetland, upland prairie and forested riparian area. The diversity and interspersed of these habitat types supports a wider diversity of wildlife and provides more resilience to sustain these functions and values over time.

WILDLIFE

The diversity of habitats helps to support a diversity of wildlife. Many rare and declining species utilize the site to nest such as the Western meadowlark, Streak horned lark, American bittern, Wilson’s phalaropes, and Western bluebirds. The site hosts an abundance of wintering waterfowl and migrating shore birds, in conjunction with mammals such as black tailed deer, Roosevelt elk, bobcats and coyotes. The riparian area may support turtles as well.

MAN MADE STRUCTURES

Infrastructure on the property consists of one cable gate and culvert at approach from old Bellfountain Road, one culvert associated with the Bellfountain road approach, and equipment staging area in NE upland area. The dirt access road on East border, staging area, and waterline easement on south border are not part of the mitigation site and further defined in restrictive covenant. Benton County maintains ditches along Bellfountain road and associated culverts, it is the landowner’s responsibility to replace approach culverts if necessary. Two berms provide diverse hydroperiods for habitat diversity. Fencing on the perimeter of property is owned and maintained by neighboring landowners. Temporary structures include a pedestrian bridge across slough and two wildlife blinds. All infrastructure and features are illustrated in **Figure 2**.

The Long-term management objectives for the Marys River Wetland Bank and Conservation Easement are:

Objective 1

Preserve and enhance the plant communities (wet prairie, upland prairie, riparian forest, emergent marsh, scrub/shrub, and Forested wetland) by maintaining dominance of native plant species characteristic of each community.

Objective 2

Actively manage invasive species to maintain the above communities.

Objective 3

Ensure the site continues to support water storage and purification functions to a similar extent as in the baseline report.

Objective 4

Maintain hydrologic conditions that support diverse wildlife habitats.

Objective 5

Protect and maintain the preserve in perpetuity to protect functions of site from inconsistent land uses.

B. Conservation Threats, Management Limitations and Catastrophic Events

i. Conservation Threats

Lands adjacent to the subject property are all zoned as Exclusive Farm Use (EFU) so it's reasonable to expect few land use conflicts from urbanization. In addition, Benton County owns Bellfountain road which encompasses the entire Eastern boundary. Potential threats to the aquatic resource functions and values of the Bank include:

- Invasion by non-native plants such as Himalayan blackberry, reed canarygrass, English ivy, or other invasive species including macro invertebrates and wildlife that are present on neighboring properties or likely to be introduced by wildlife or flooding.
- Nutria may undermine berms thus indirectly affect the water table supporting wetlands. (The berms were designed to withstand this threat; however, annual site monitoring will check on the stability and functionality of the berms)
- Sediment or pollutants could enter the site from upslope sources or flood waters.
- Stray livestock could enter through the unfenced boundary.
- Dumping of garbage/debris at the pull-out on Bellfountain road could pose hazards to wildlife or develop into an ongoing maintenance cost.
- Trespass could damage plantings and cause soil erosion.

ii. Management Limitations

There is a city waterline easement along the south edge of the Bank; this area is planted to grassy vegetation that can be readily re-established if maintenance of the waterline is needed.

iii. Catastrophic Events

Changes in hydrologic patterns, storm or drought occurrences or duration as a result of climate change may challenge long-term function of the wetland. Current climate patterns predict the timing of the predominant rainfall is to be somewhat consistent, mostly falling from November through March. Changes in temperature and water regime could introduce new invasive species. Neither the landowner nor the long-term land manager can be held responsible or liable for any unforeseen natural catastrophic events such as flood, drought, disease, regional pest infestation, etc., determined to be beyond their reasonable control by DSL and USACE. The Bank is located within the floodplain of the Mary's River and has sustained the two largest floods on record since ownership with no adverse effects.

Wildfire is unlikely to impact the conservation values of the Preserve as these Willamette valley wetland habitats have evolved with an active fire regime.

The Sponsor anticipates that long-term stewardship will be conveyed to TWC in a few years. A Baseline Documentation Report (BDR) will be completed prior to conveyance of the conservation easement and will be referenced in the easement and the long term management plan. The BDR will include a detailed description of current conditions of the property at the time of easement conveyance.

3. Management, Maintenance, and Monitoring

A. Resource Management

The overall goal of long-term management plan is to sustain the ecological functions and values of the aquatic resources. The Marys River Wetland Preserve provides high quality natural, restored, and/or enhanced habitat for wildlife and contains jurisdictional waters of the United States and the State of Oregon. Individually and collectively, these wetland, wildlife and habitat values comprise the “Conservation Values” of the Preserve.

The management priorities have been set in order to sustain Preserve goals, minimize long-term workload, and make the best use of time and resources. The highest priority will be given to tasks that have the greatest long-term benefit using available technology and resources.

Invasive plants, trespass damage or garbage dumping and any other potential threats from inconsistent uses will be identified and documented during the annual site monitoring. Adaptive management and specific tasks required to address the priorities below will be identified and scheduled as appropriate. Staff responsible for monitoring and management will have the necessary knowledge and technical skills to recognize any problems and apply appropriate management actions.

Priorities:

1. Repair any vandalism or damage that affects the duration or extent of water in the wetlands.
2. Control invasive plant and animal species before they threaten conservation values.
3. Sustain native wildlife and plant habitats.
4. Enhance habitats.

B. Maintenance and Monitoring:

i. Infrastructure Damage and Vandalism

Infrastructure on the property is shown in **Figure 2**, site plan which will be maintained in serviceable condition. Inlets and outlets of any stream or channels, and areas near any water control structures on the site will be inspected for signs of erosion. Any damage or vandalism to topography that affects water flows, structures or gates, will be repaired or replaced to maintain the pre-existing functionality. Each year the land manager will conduct a monitoring survey to verify whether all conditions of the site protection are being met, and that there have been no encroachments or violations. The land manager will inspect all gates and structures and the perimeter of the property to identify any maintenance needs or encroachments. Any litter or trespass damage will be cleaned up in the same season in which it occurred. Hazard trees that pose a threat to infrastructure or adjacent property may be felled and will be left on site. Wildfire is not expected to damage the plant communities except conifers, which would be replanted in the following dormant season. Wildfire

suppression damages such as dozer lines will require immediate re-planting with native species and follow-up attention to weed control. The expected frequency of repair or replacement for each feature, and the cost, is provided in **Table 2** below.

ii. Sustaining Native Plant Communities

Vegetation management will be the primary on-going task at the site. Native vegetation should be dominant at the site. Invasive species presence and levels should not threaten conservation values. Any Oregon Department of Agriculture listed Noxious Weeds will be controlled.

Controlling encroachment by non-native invasive species will be done in a variety of ways including physical control such as hand pulling and mowing. Chemical control will include primarily spot herbicide application by hand. In the event of a major invasive weed take over, broadcast spraying of individual areas could be used. Another method for the enhancement of native plant communities and control of invasive species that may be considered is prescribed fire. Any use of fire would comply with the current air quality and land use regulations or restrictions. Native trees and shrubs may need to be controlled to maintain open prairie.

Each year during the annual review, an evaluation of the effectiveness of any methods or techniques used that year will be made along with a determination to see if there are new species or problems that require special attention. At that time a review of the literature and new techniques or herbicides will be done, to determine the best approach for the following year. The expected frequencies and costs of vegetation management tasks are listed in **Table 2** below.

Ultimately, an adaptive management strategy will be used. Such a strategy reassesses priorities for management on a yearly basis, using the following steps:

- Re-order target species based on the likely effects to both target and non-target species.
- Implement the plans and monitor the results of control actions.
- Evaluate the effectiveness of the methods in light of overall site goals and use this information to modify and improve control methods.

iii. Sustaining Wildlife Habitats

If habitats for characteristic wildlife are noted to be deteriorating via plant succession, invasion of non- native species, or adverse land uses outside the Preserve boundaries, actions will be identified and taken to restore those habitats or mitigate the conflicts. For example, tree invasion of grassland bird habitat may be reversed by felling the trees or hedgerows may be planted to screen the ponds from a noisy or invasive land use on an adjacent property. Opportunities for wildlife habitat improvements consistent with the Conservation Values will be evaluated on an on-going basis and be implemented as needed or as funds are available.

iv. Administration

The long-term fund manager will manage the endowment fund prudently to provide ongoing revenue to use for management and maintenance of the property. The land manager will conduct annual monitoring of the conservation values and prohibited uses identified in the site protection instrument. Documentation of conditions and observations will be shared between the land manager, fund manager, and landowner, and records kept informing future land management. Administration also includes ensuring property taxes are paid, insurance, legal defense, and maintaining communications

with neighboring landowners. Monitoring to assure the goals and objectives of the management plan are being met will document site changes over time and be used to determine if adjustments to the plan are warranted. The land manager will maintain records of the annual monitoring and maintenance on file for future reference.

4. Long-term Funding and Task Prioritization

A. Funding

Long-term management of the Bank will be funded by the annual revenue generated by a long-term funding mechanism or equivalent as approved by the Co-chair Agencies. The Sponsor is responsible for managing the long-term funding mechanism unless and until it is conveyed to another party as approved by the Co-chair Agencies. The long-term fund manager will manage this fund prudently to provide ongoing revenue to use for management and maintenance of the property. The Sponsor has elected to use an endowment as a long-term funding mechanism and will capitalize the long-term funding account for these purposes as a condition of the Credit Release Schedule in Exhibit D of the MBI.

The Long-term management period of the Bank will begin when the Bank is closed, including if it closed by default. Until the long-term management period begins, any income from the long-term management funding mechanism shall be reinvested in the account.

Table 2 contains a summary of the anticipated annual costs of long-term management for the Bank. These costs include estimates of time and funding needed to conduct the basic monitoring site visits and vegetation management. The initial estimated amount needed for the long-term funding mechanism is **\$145,625** and reflects an estimate of the amount needed to generate sufficient income to pay long-term management costs in perpetuity. When necessary, the long-term manager may determine that protection of the principal is more important than specific management tasks in any given year and may choose not to execute certain management tasks. Thereafter, the fund manager will continue to re-invest interest income to ensure that the endowment will continue to provide adequate revenue for site management in perpetuity.

B. Task Prioritization

Unforeseen circumstances or periodic low returns on the endowment portfolio may create a need for prioritization of management tasks. In general, tasks are prioritized in this order:

- 1) Actions required by a local, state, or federal agency;
- 2) Repair of water or grade control structures that would otherwise threaten loss of wetland area;
- 3) Tasks necessary to maintain or remediate habitat quality; and
- 4) Monitoring resource conditions.

Table 2: Anticipated Ongoing Operations and Maintenance Costs

Work Elements	Anticipated Frequency	Target Completion Date	Units	Unit Price	Cost	Divide Years	Total Annualized Cost
1. Repair and Maintenance							\$314
Berm maintenance	Every three years	As needed	3 hours	\$80	240	3	\$80
Maintain/repair signs, boundary markers, litter, and vandalism	Annual	As needed	5 hours	\$40	200		\$200
Gate replacement	25 years	As needed	2	\$50	100	25	\$4
Rock for Parking Area	30 years	As needed	30 cubic yds	\$10	300	30	\$10
Culverts Maintenance	50 years	As needed	2	\$500	1000	50	\$20
2. Invasive Species Control							\$1,400
Spot spraying invasive species	Annual	Late spring/ Summer	20 hours	\$40	800		\$800
Monitoring for invasive species, Litter, and Vandalism	Annual	Late spring/ Summer	12 hours	\$40	480		\$480
Nutria or other invasive wildlife and invertebrate control	Every other year	As needed	6 hours	\$40	240	2	\$120
3. Sustain/Enhance Native Habitats							\$700
Mowing to control exotic grasses and forbs, mimic fire	Annual	Fall	10 acres	\$60	600		\$600
Mowing of woody shrubs to reduce prairie encroachment	Every three years	Fall	5 acres	\$60	300	3	\$100
4. Administration							\$3,211
Land trust travel	6 trips/yr		170 miles/ trip	\$0.55/ mile	93.5/trip 561 /yr		\$561
Neighbor communications	Annual	As needed	3 hours	\$50	150		\$150

Reporting, fiscal administration, and project MGT	Annual	Ongoing	50 hours	\$ 50	2500		\$2,500
Legal defense contingency**	10 years				5,000		
	TOTAL ANTICIPATED ANNUAL O&M COSTS						\$5,625

The formula for calculating the amount is:

(Annual revenue needed) divided by (capitalization rate) = Endowment Amount

Capitalization rate = rate of investment return minus rate of inflation

** The Legal defense payment is a onetime payment of \$5,000 that will go into The Wetlands Conservancy's legal defense fund.

Annual costs =

\$5,625 Rate of

return = 7%,

Assume Inflation =

3% Capitalization

Rate = 4 %

Total Anticipated Annual O&M Endowment =

\$140,625 Legal defense contingency (Lump Sum)

= \$5,000 Stewardship Endowment Needed=

\$145,625.00

5. Transfer and Amendments

A. Transfer and Assignment of Long-Term Management Responsibilities

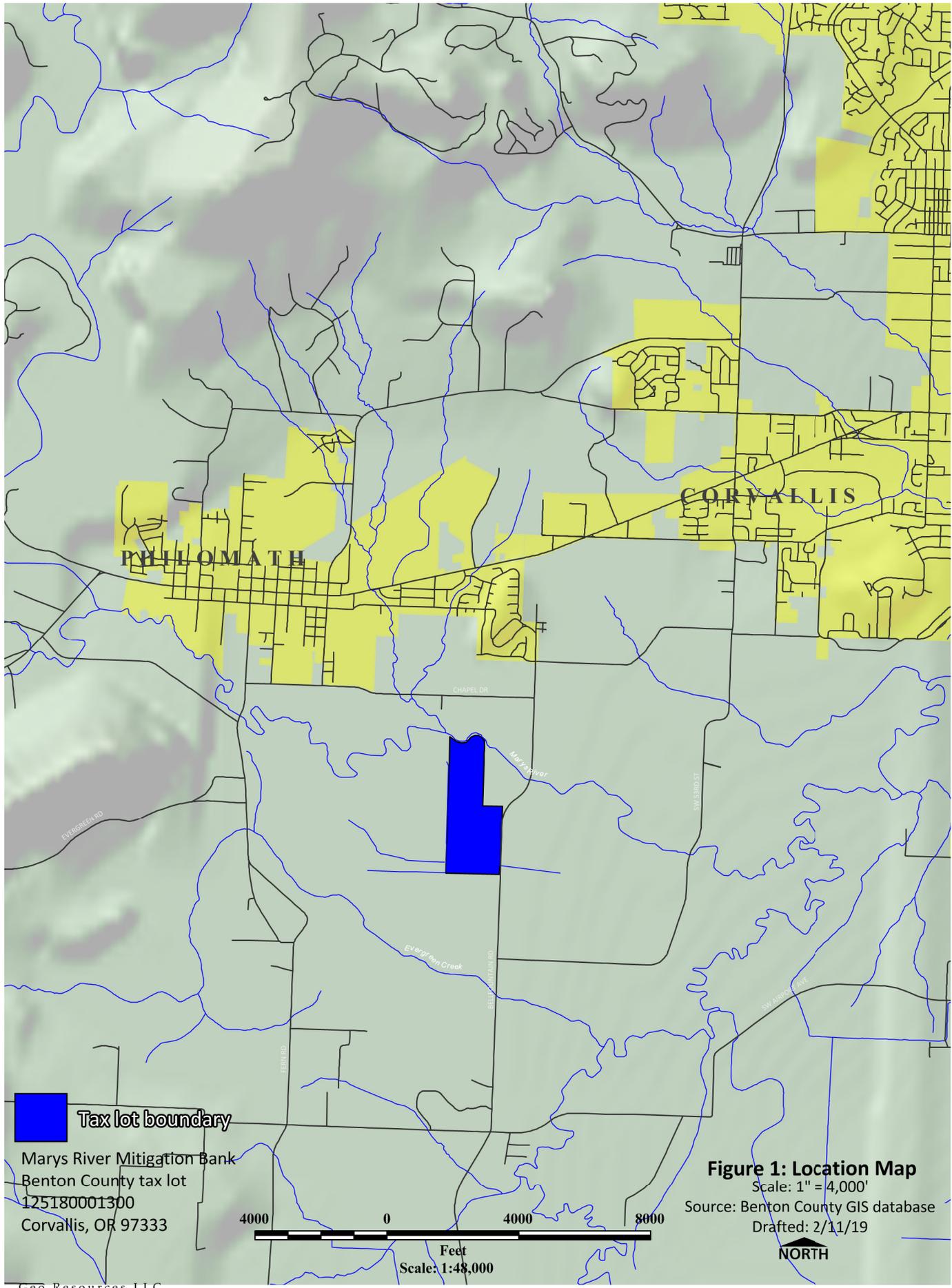
Transfer during the Establishment Period (prior to Bank closure) shall be subject to the terms of the MBI. Transfer or assignment of any portion of or interest in the Bank shall be subject to the requirement that any funds pledged toward the long-term management fund shall continue to be accrued and expended in a manner consistent with the MBI and the LTMP. If the responsibilities of long-term management of the land and/or the management fund are accepted by a new long-term manager other than a successor or assign, they must accept these rights and obligations by signing a written amendment to the LTMP or other legal documentation. The Bank Sponsor must also confer any necessary real estate interest and funding to ensure the new long-term manager or long-term funding manager can perform the tasks described here in. Transfer or assignment is subject to the Co-chair Agencies finding that the new long-term manager is an appropriate entity to take on these responsibilities. Approval of the request to transfer will not be unreasonably withheld.

Transfer during the Long-term Management Period: After bank closure, the site protection instrument recorded on the title, per Exhibit F of the MBI, shall require notice to DSL and to the Corps when there are changes in land ownership or in the identity of a conservation easement holder. The Co-chair Agencies may use this notice as an opportunity to inform the new party of their respective regulations that apply to any proposed earth moving in the waters of the state or waters of the US within the Bank Property.

B. Amendments

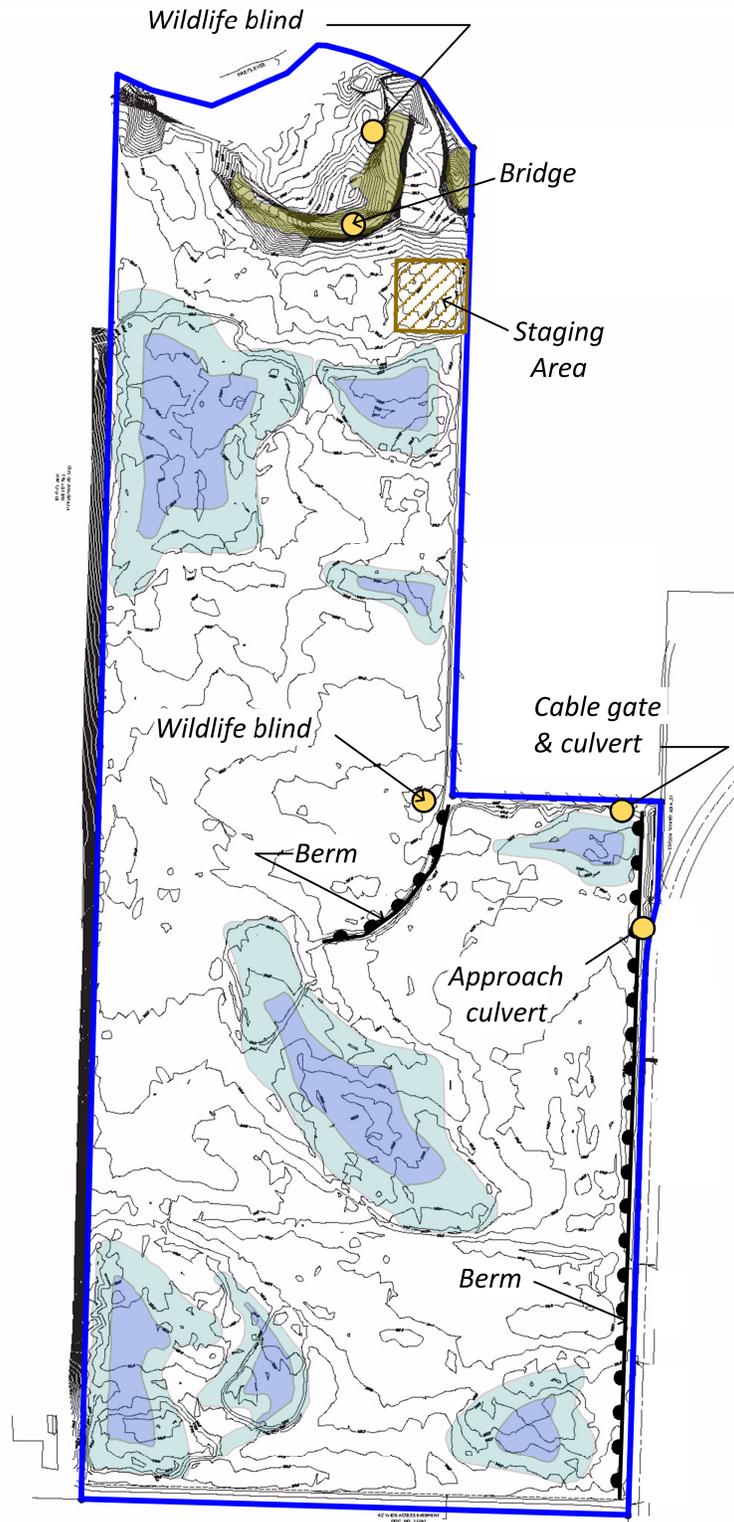
Prior to Bank closure, this MBI including its Exhibits such as this LTMP may be amended according to the terms of the MBI. Upon written request from the Sponsor or long-term manager, if different than the Sponsor, the necessary parties may meet and confer with DSL and the Corps from time to time to discuss possible revisions of the LTMP to better meet management objectives and sustain the conservation values of the Bank. The Landowner, if other than the Sponsor, may also be invited to such meetings. All amendments and modifications to the LTMP shall be fully set forth in a separate document signed by the Sponsor and Co-chair Agencies that shall be appended to the MBI.

Within 60 days of the Corps receiving the proposed final modification or amendment to LTMP, the district engineer must notify the necessary parties to include DSL, the long-term manager, and other members of the IRT of his intent to approve or disapprove the proposed modification or amendment.




Tax lot boundary
 Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

Figure 1: Location Map
 Scale: 1" = 4,000'
 Source: Benton County GIS database
 Drafted: 2/11/19

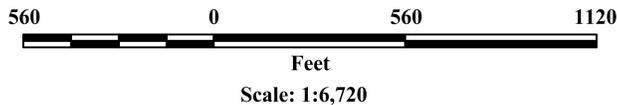



 Tax Lot Boundary: 126.64 acres

Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

FIGURE 2: SITE PLAN MAP WITH FEATURES AND INFRASTRUCTURE

Scale: 1" = 560'
 Source: Udell Eng drawing
 As-built survey
 Drafted: 5/12/20





March 22, 2019

Oregon Wetlands LLC
6001 NW Gilmour Lane
Albany, OR 97321

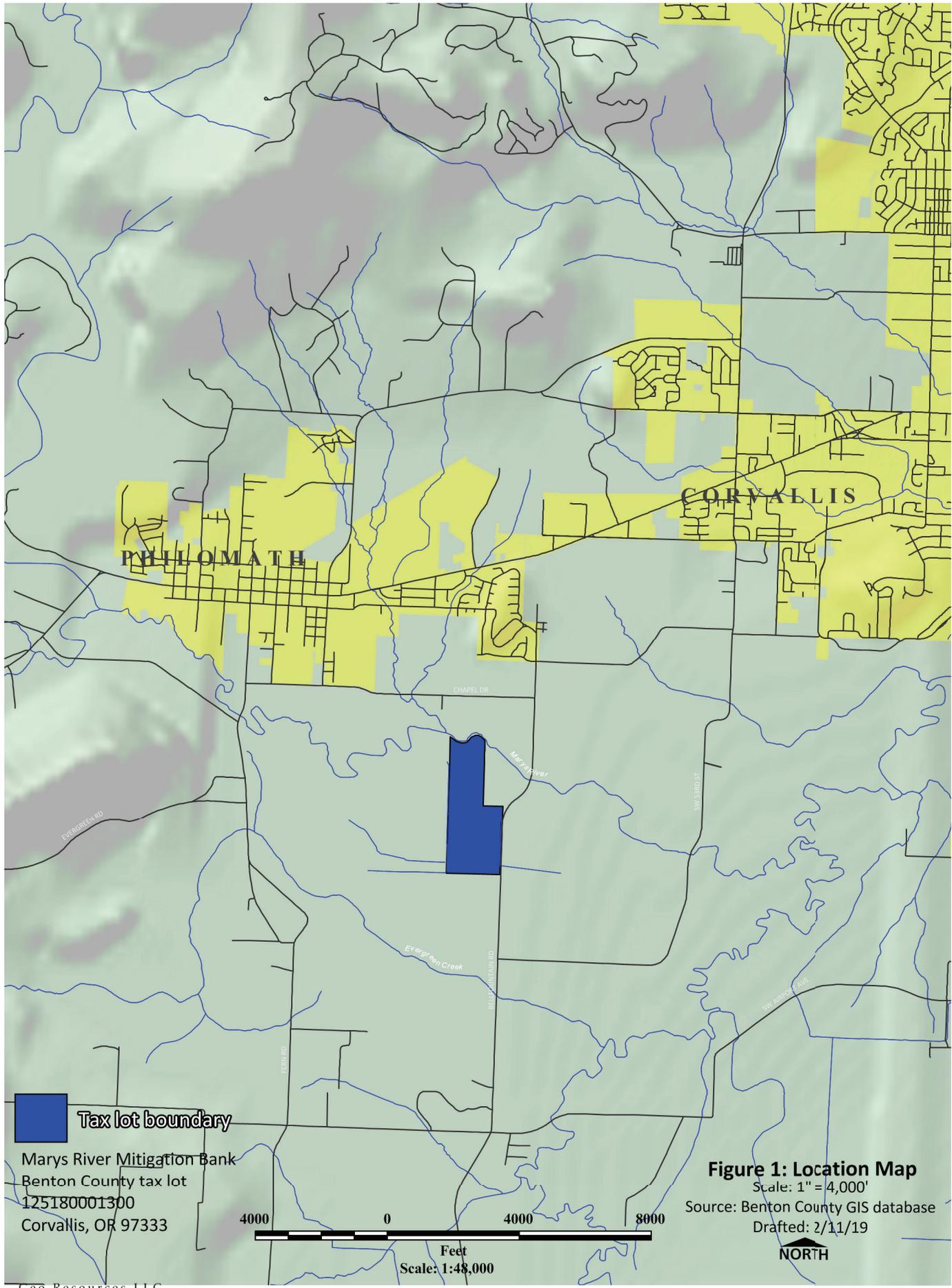
Dear Ray Fiori,

The Wetlands Conservancy is looking forward to continuing our partnership at the Evergreen Wetland Mitigation Bank with participation in the long term protection and stewardship of the proposed Mary's River Wetland Mitigation Bank.



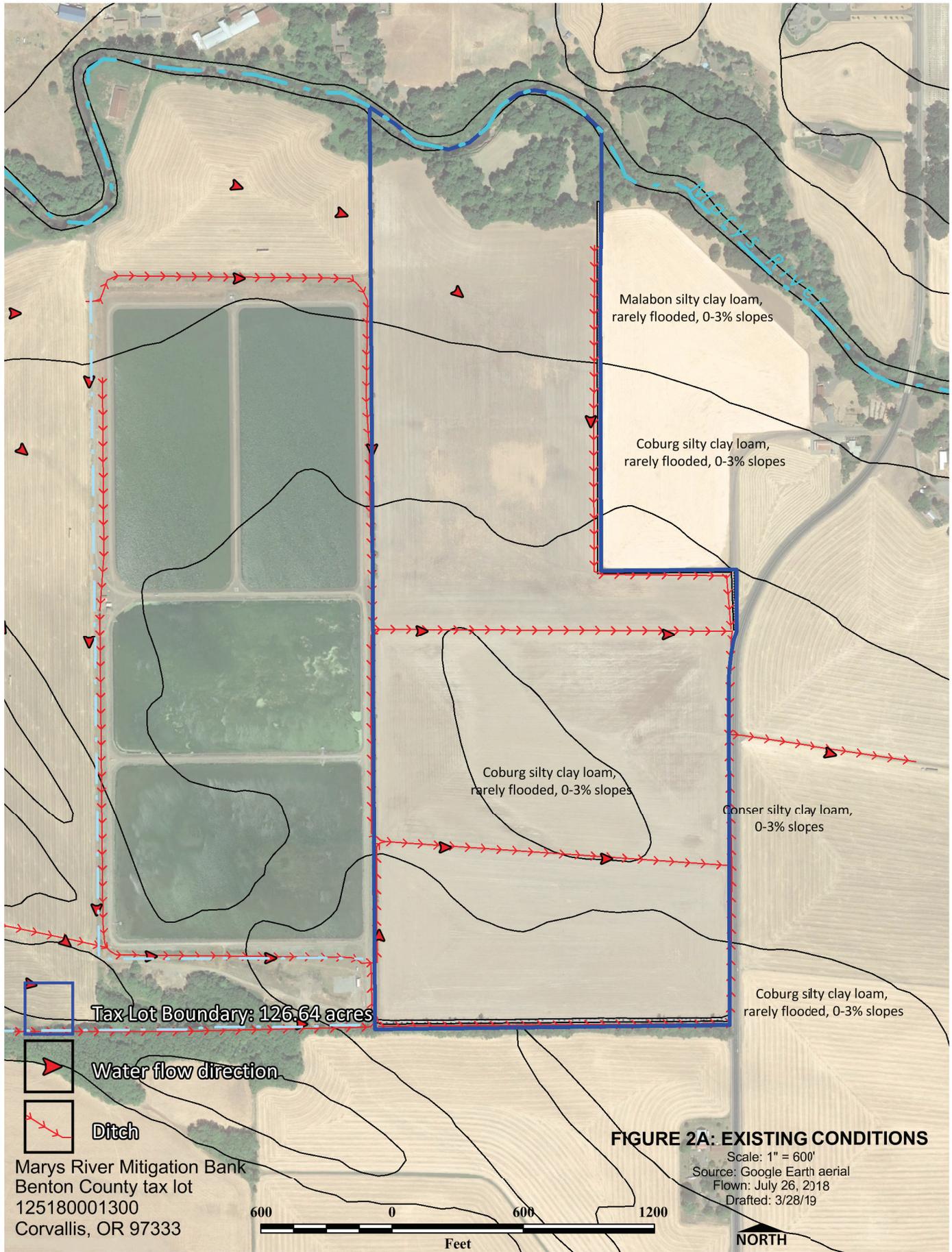
Esther Lev
Executive Director

Exhibit M
Maps and Figures



 Tax lot boundary
 Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

Figure 1: Location Map
 Scale: 1" = 4,000'
 Source: Benton County GIS database
 Drafted: 2/11/19

Tax Lot Boundary: 126.64 acres

Malabon silty clay loam,
rarely flooded, 0-3% slopes

Coburg silty clay loam,
rarely flooded, 0-3% slopes

Coburg silty clay loam,
rarely flooded, 0-3% slopes

Conser silty clay loam,
0-3% slopes

Coburg silty clay loam,
rarely flooded, 0-3% slopes

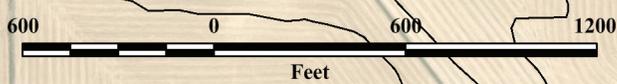
Water flow direction

Ditch

FIGURE 2A: EXISTING CONDITIONS

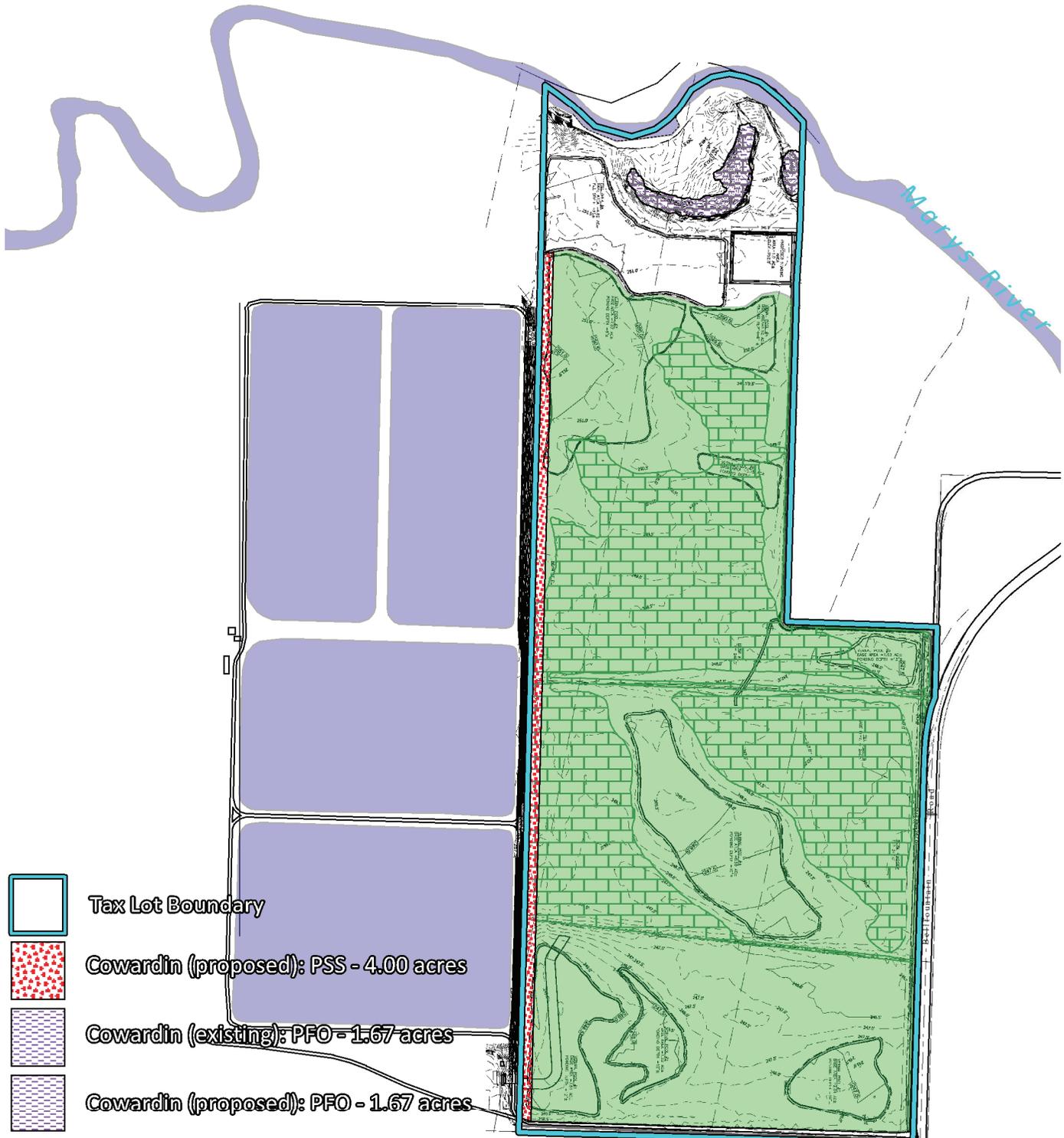
Scale: 1" = 600'
Source: Google Earth aerial
Flown: July 26, 2018
Drafted: 3/28/19

Marys River Mitigation Bank
Benton County tax lot
125180001300
Corvallis, OR 97333



Scale: 1:7,200

NORTH



-  Tax Lot Boundary
-  Cowardin (proposed): PSS - 4.00 acres
-  Cowardin (existing): PFO - 1.67 acres
-  Cowardin (proposed): PFO - 1.67 acres
-  Cowardin (existing): PEM - 45.70 acres
-  Cowardin (proposed): PEM - 103.75 acres

Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

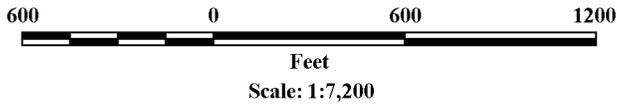


FIGURE 2B: COWARDIN CLASSES

Scale: 1" = 600'
 Source: modified from Udell Eng
 Site Plan Design
 Drafted: 3/25/19
 Revised: 1/14/20





-  Property Boundary
-  HGM (existing): Flat - 44.37 acres
-  HGM (proposed): Flat - 80.45 acres
-  HGM (existing): Depressional - 1.67 acres
-  HGM (proposed): Depressional - 27.30 acres

Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

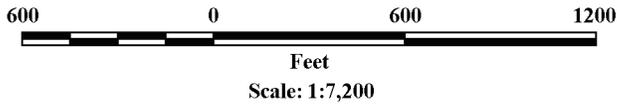
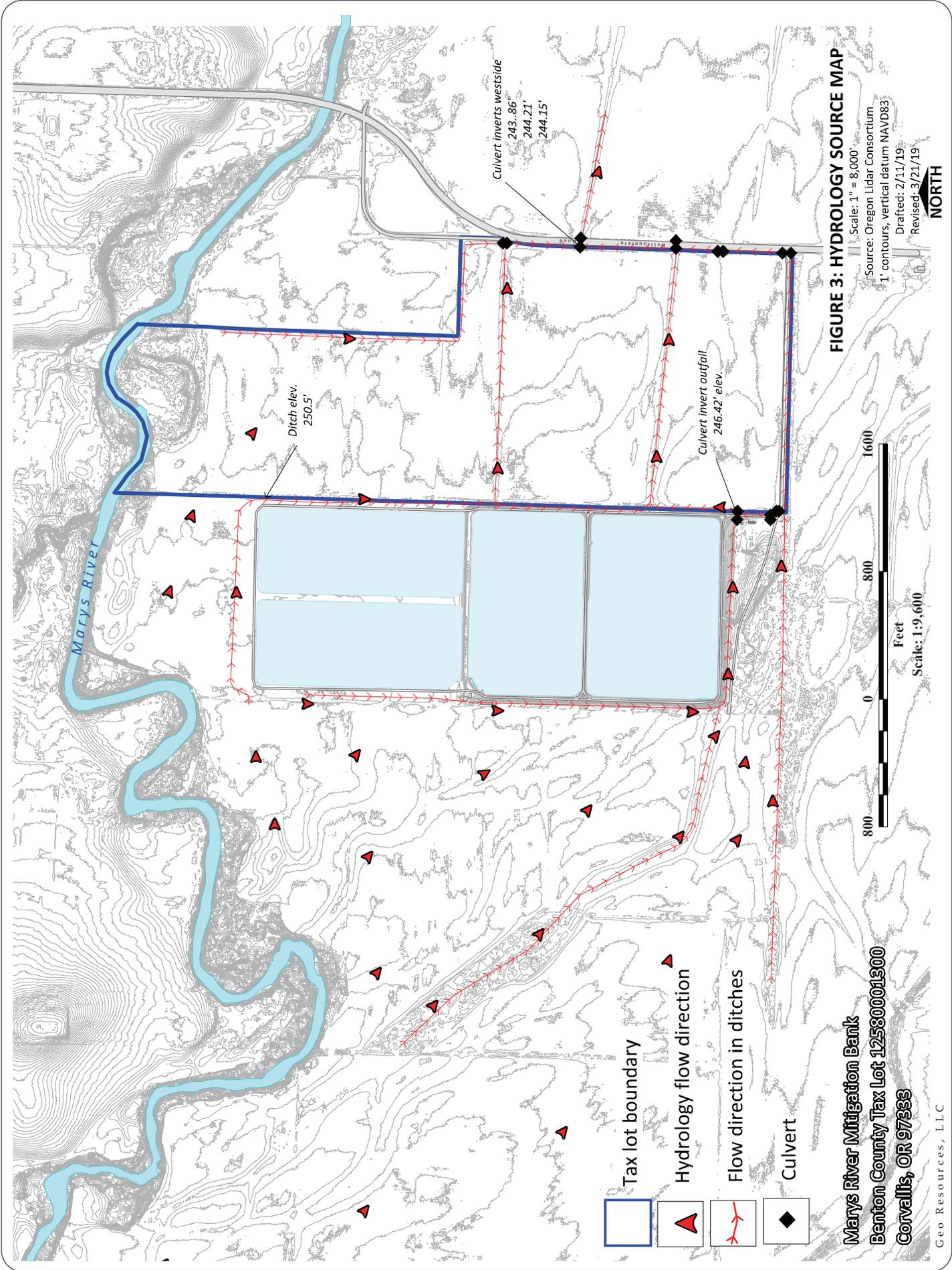


FIGURE 2C: HGM CLASSES
 Scale: 1" = 600'
 Source: modified from Udell Eng
 Site Plan Design
 Drafted: 3/25/19
 Revised: 12/30/19





Tax lot boundary

Hydrology flow direction

Flow direction in ditches

Culvert

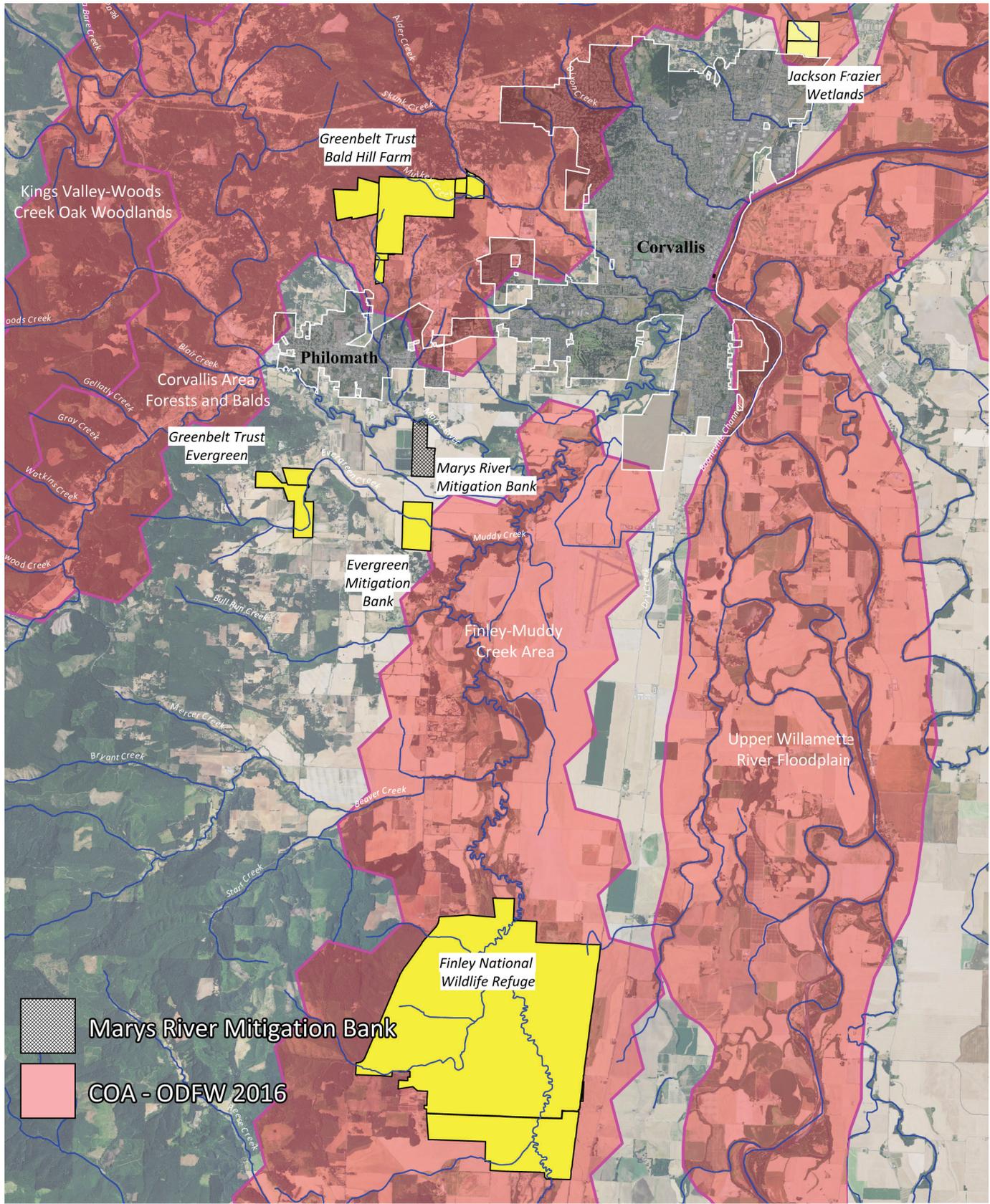
Marys River Mitigation Bank
 Benton County Tax Lot 12580001300
 Corvallis, OR 97338

FIGURE 3: HYDROLOGY SOURCE MAP

Scale: 1" = 8,000'
 Source: Oregon Lidar Consortium
 1' contours, vertical datum NAVD83
 Drafted: 2/11/19
 Revised: 3/21/19

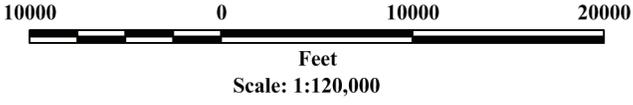


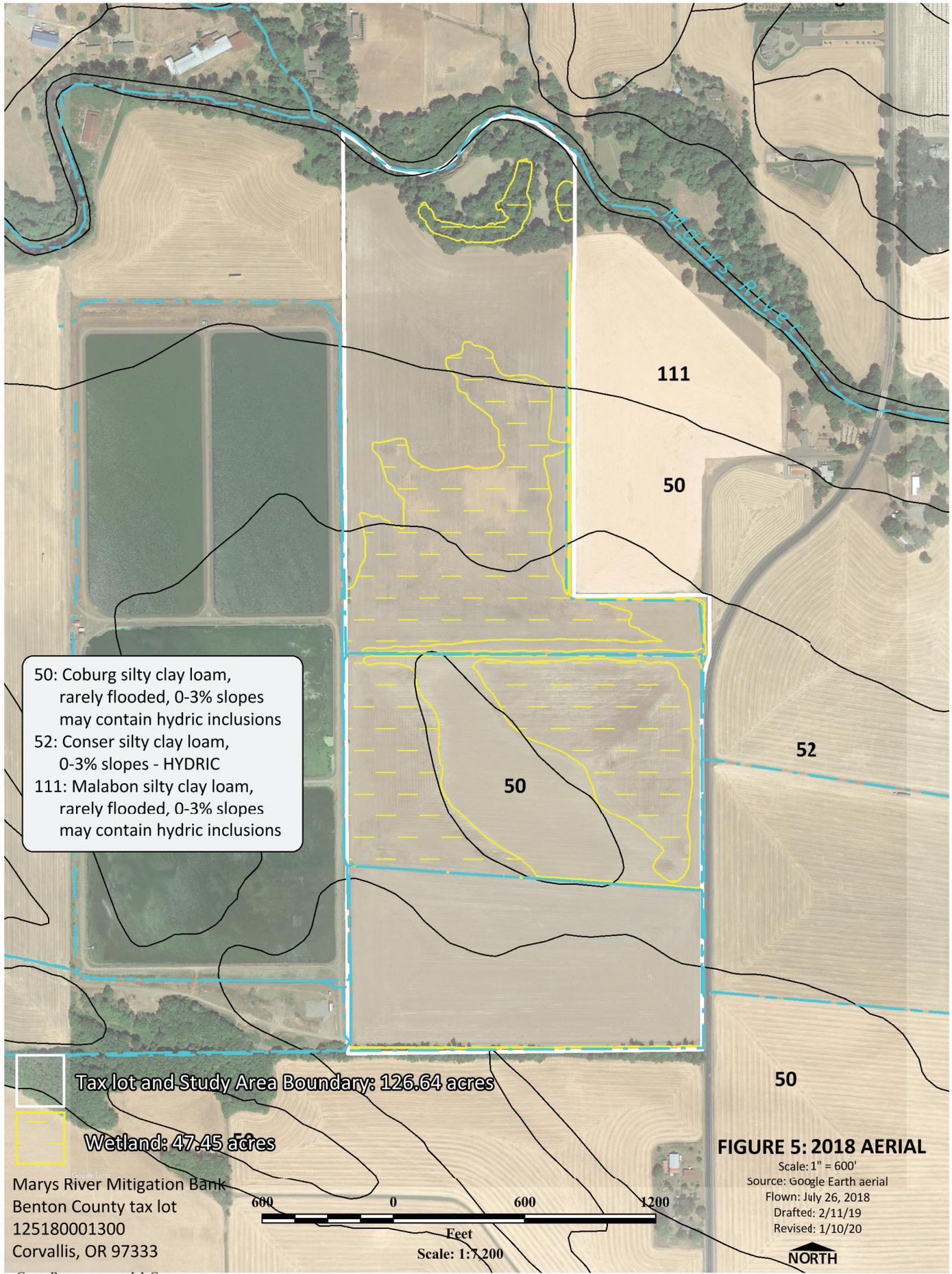
NORTH



Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

Figure 4: Priority Conservation Areas
 Scale: 1" = 10,000'
 Source: ODFW COA, 2018/
 Drafted: 12/30/19





50: Coburg silty clay loam,
rarely flooded, 0-3% slopes
may contain hydric inclusions
52: Conser silty clay loam,
0-3% slopes - HYDRIC
111: Malabon silty clay loam,
rarely flooded, 0-3% slopes
may contain hydric inclusions

Tax lot and Study Area Boundary: 126.64 acres

Wetland: 47.45 acres

Marys River Mitigation Bank
Benton County tax lot
125180001300
Corvallis, OR 97333

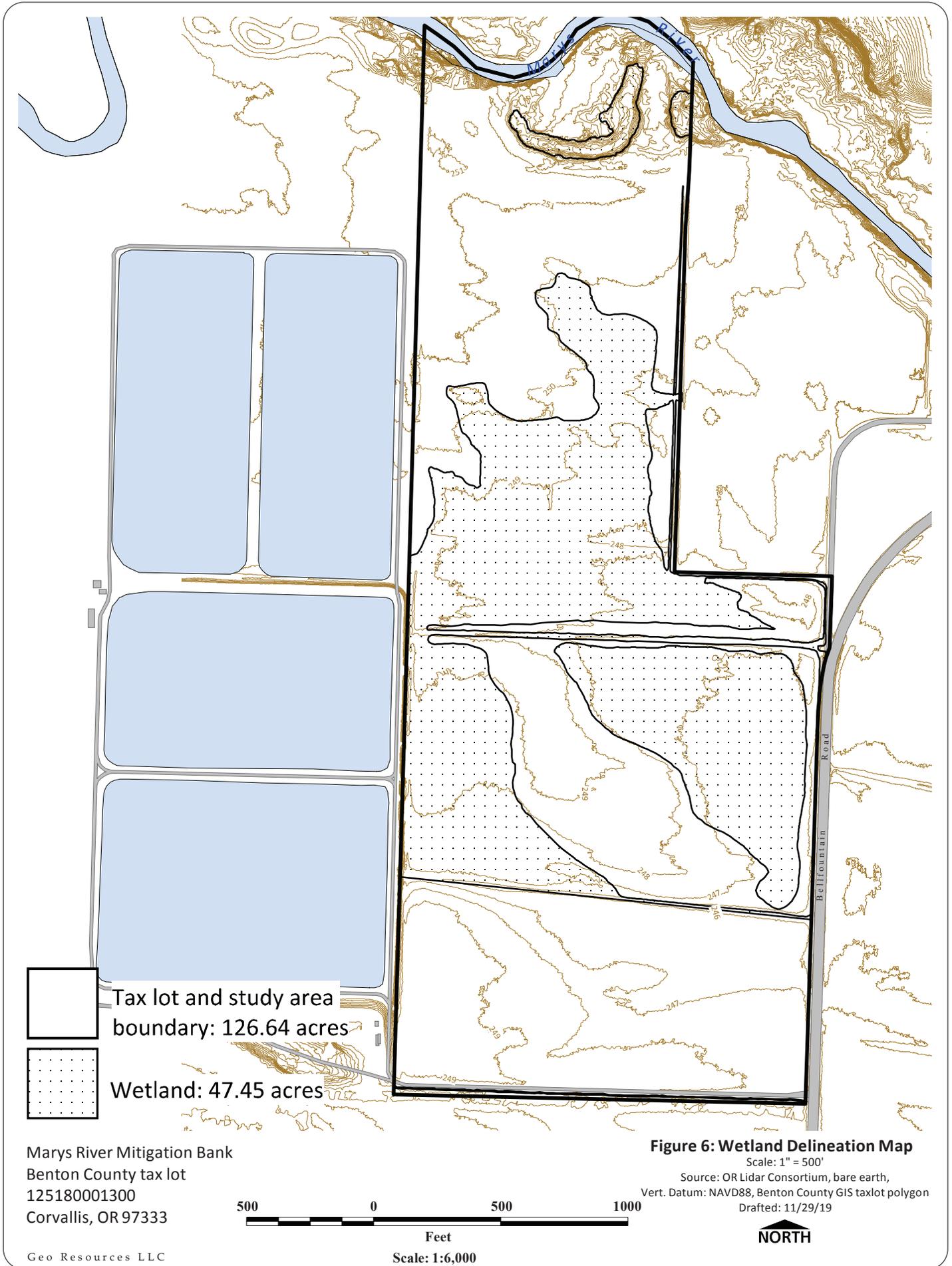


Scale: 1" = 7,200

FIGURE 5: 2018 AERIAL

Scale: 1" = 600'
Source: Google Earth aerial
Flown: July 26, 2018
Drafted: 2/11/19
Revised: 1/10/20





Tax lot and study area boundary: 126.64 acres
 Wetland: 47.45 acres

Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

500 0 500 1000
 Feet
 Scale: 1:6,000

Figure 6: Wetland Delineation Map
 Scale: 1" = 500'
 Source: OR Lidar Consortium, bare earth,
 Vert. Datum: NAVD88, Benton County GIS taxlot polygon
 Drafted: 11/29/19

NORTH

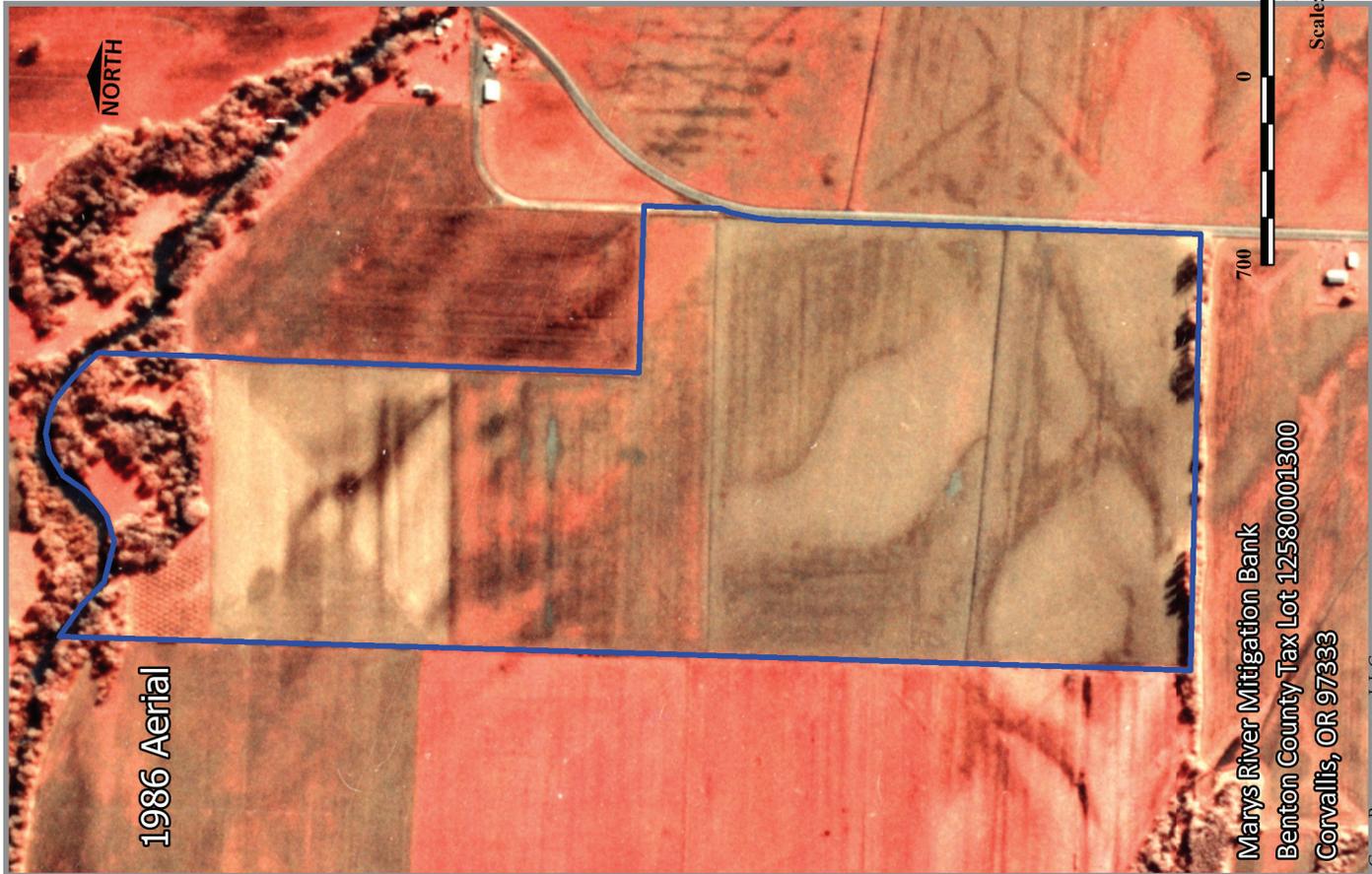
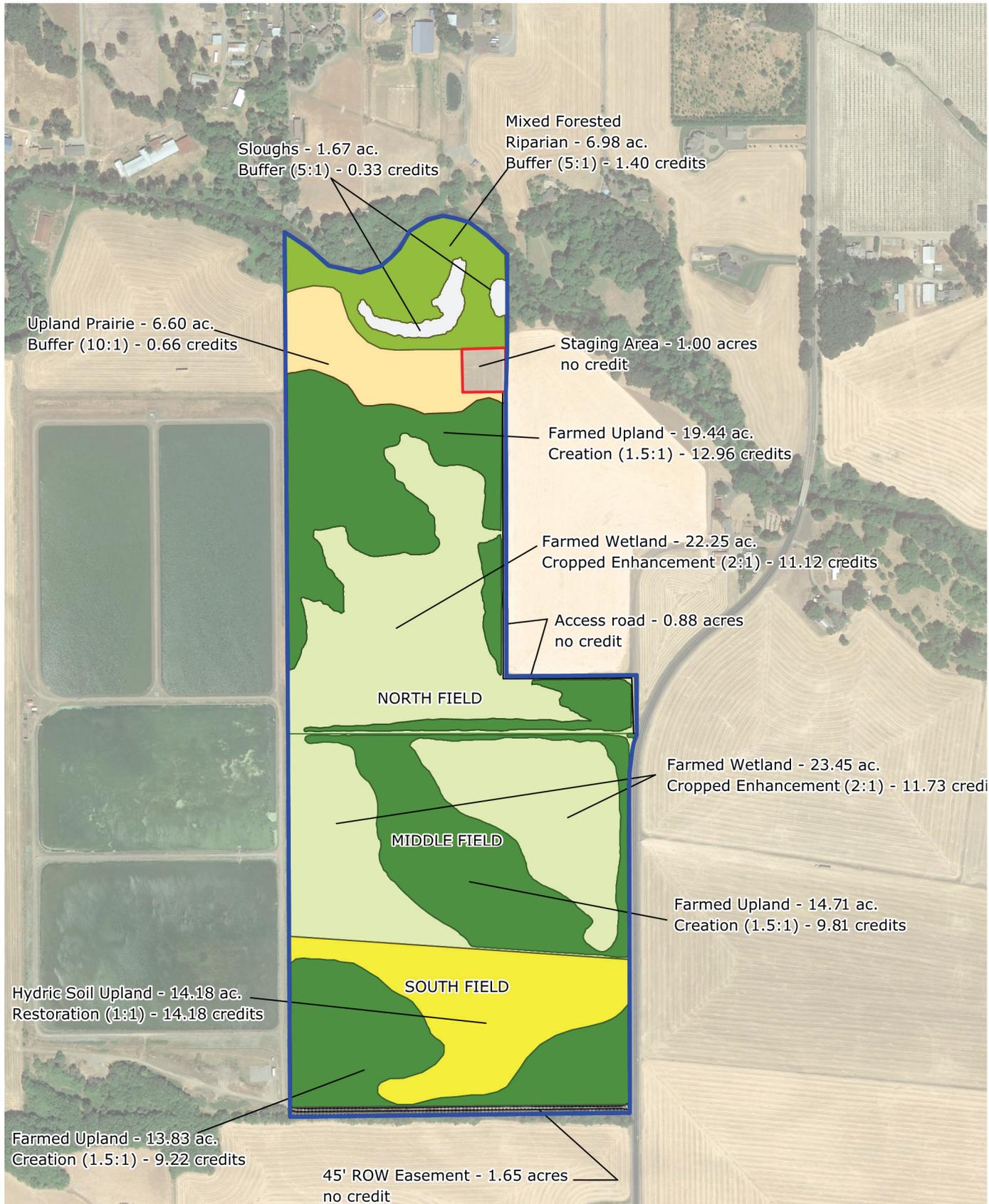


FIGURE 7: AERIAL COMPARISON MAP



Marys River Mitigation Bank
Benton County tax lot
125180001300
Corvallis, OR 97333

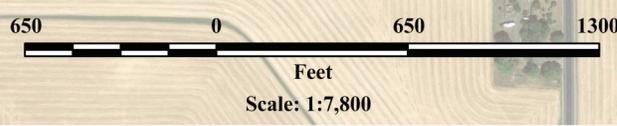
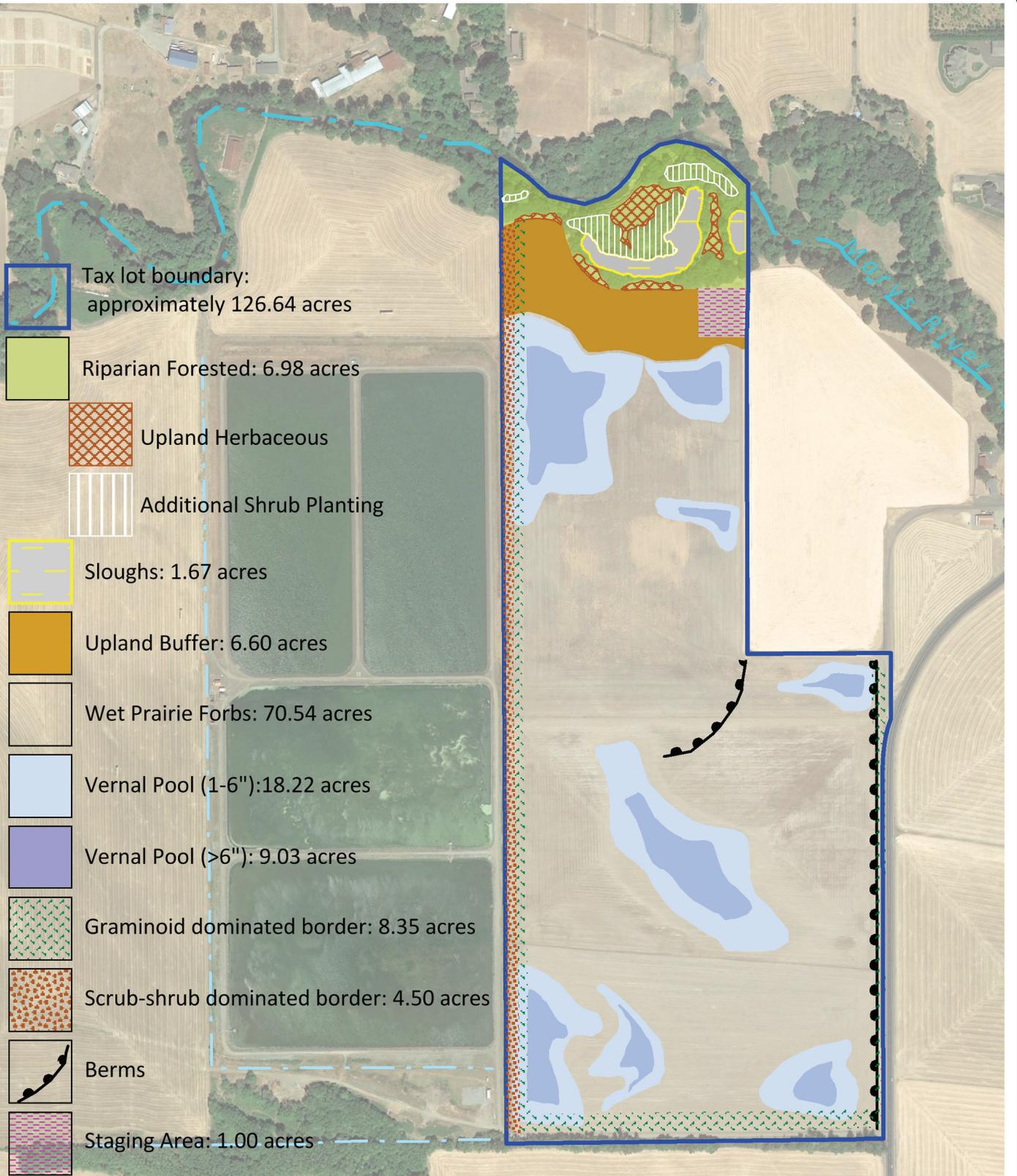


FIGURE 8: MITIGATION CREDIT MAP

Scale: 1" = 650'
Drafted: 2/11/19
Revised: 7/26/19
NORTH



Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

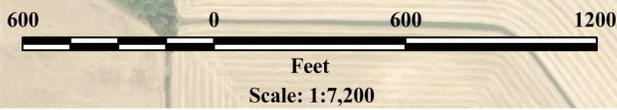
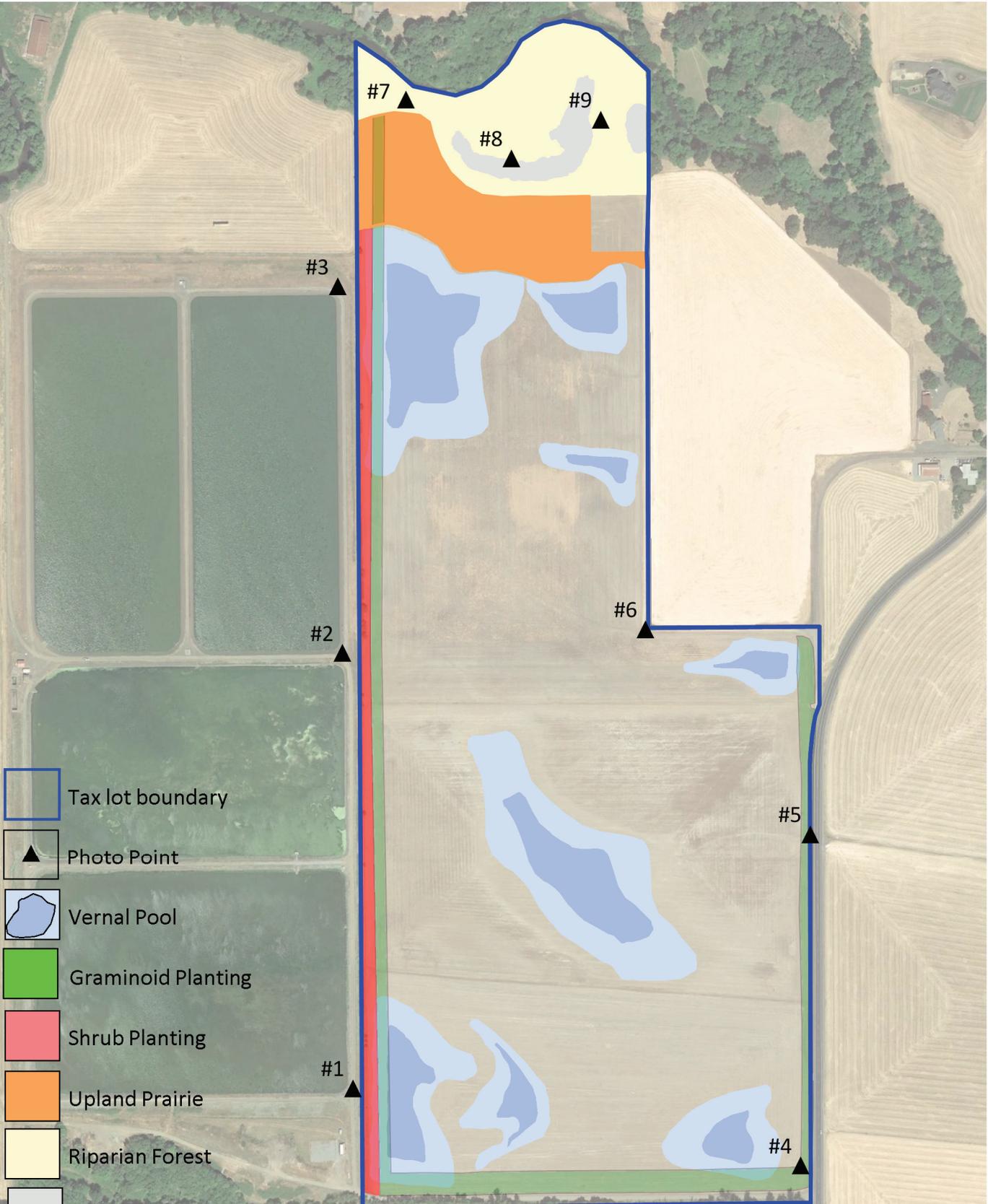


FIGURE 9: PLANTING PLAN MAP

Scale: 1" = 600'
 Source: Google Earth aerial
 Flown: July 26, 2018
 Drafted: 3/29/19
 Revised: 11/06/19





- Tax lot boundary
- Photo Point
- Vernal Pool
- Graminoid Planting
- Shrub Planting
- Upland Prairie
- Riparian Forest
- Slough in Riparian Forested Area

Figure 10: Photo Monitoring Points

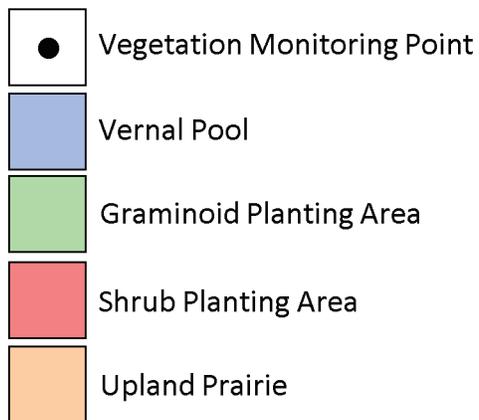
Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333
 Geo Resources LLC



Feet
 Scale: 1:6,000

Scale: 1" = 500'
 Drafted: 12/13/19





Marys River Mitigation Bank
 Benton County tax lot
 125180001300
 Corvallis, OR 97333

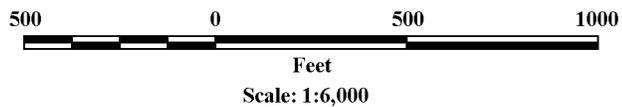


Figure 11: Vegetation Monitoring Map

Scale: 1" = 500'
 Drafted: 3/29/19
 Revised: 11/06/19



