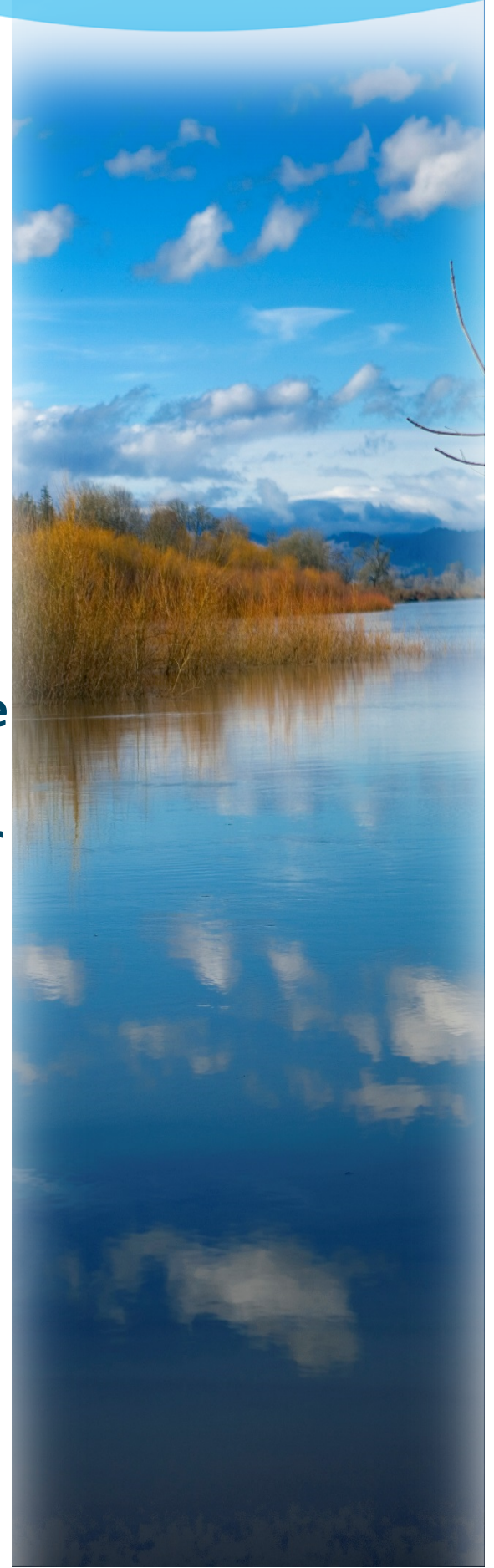


Willamette Water Supply
Our Reliable Water

Willamette Water Supply Program

**Responses to Comments on the
Draft Wildlife Protection and
Adaptive Management Plan for
Orenco Woods Nature Park**

February 26, 2021



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List of Abbreviations and Acronyms

APHIS	U.S. Department of Agriculture, Animal and Plant Inspection Services
CCR	Consolidated Comment Response
Contractor	construction contractor
DEA	David Evans and Associates, Inc.
DEQ	Oregon Department of Environmental Quality
DSL	Oregon Department of State Lands
fire station	Hillsboro Fire and Rescue – Cherry Lane Station
Hillsboro	City of Hillsboro
MBTA	Migratory Bird Treaty Act
NMFS	National Marine Fisheries Service
ODFW	Oregon Department of Fish and Wildlife
OWNP	Orenco Woods Nature Park
Plan	Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park
PLW_2.0	Cornelius Pass Road Pipeline Project
TVWD	Tualatin Valley Water District
USACE	U.S. Army Corps of Engineers
USFWS	U.S. Fish and Wildlife Service
WWSP	Willamette Water Supply Program
WWSS	Willamette Water Supply System

1 Introduction

The Willamette Water Supply System (WWSS) Commission is an Oregon intergovernmental entity formed by Tualatin Valley Water District (TVWD), the City of Hillsboro (Hillsboro), and the City of Beaverton. The WWSS Commission was formed to build the WWSS in response to planned growth in the service areas for the three jurisdictions. TVWD has been designated the Managing Agency for the WWSS Commission, and TVWD operates the Willamette Water Supply Program (WWSP) to plan, design, and construct the WWSS.

The raw water intake for the WWSS is located at the Willamette River Water Treatment Plant in Wilsonville, as shown in Figure 1. From there, raw water will be pumped to the WWSS Water Treatment Plant, a new state-of-the-art water filtration plant in Sherwood where multiple treatment processes will produce high quality drinking water. Drinking water will be pumped to reservoir facilities on Cooper Mountain, then will be gravity-fed to additional storage and customers in the TVWD, Hillsboro, and Beaverton service areas. The WWSS includes 3.3 miles of 48-inch pipeline generally following NE Cornelius Pass Road from SE Frances Street in the south to Highway 26 in the north. This portion of the pipeline is called the Cornelius Pass Pipeline Project, or PLW_2.0. Approximately 900 feet of PLW_2.0 will be located beneath Orenco Woods Nature Park (OWNP), a nature park located in Hillsboro, Oregon, and co-owned by Hillsboro and Metro, as shown in Figure 2.

In January 2021, WWSP prepared a Draft Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park (Draft Plan). The Draft Plan describes the WWSP's commitments to further prioritize the protection of wildlife and wildlife habitat within OOWNP during pipeline construction and post-construction restoration. It was developed in response to concerns expressed by Hillsboro and citizen stakeholders about the potential for active construction in OOWNP to impact wildlife. WWSP sought community input on the draft plan during a public review period (January 20, 2021 through February 2, 2021). The Final Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park (Plan, or Final Plan), under separate cover, was prepared in February 2021 to incorporate feedback received during the community review process, and to present corrections, revisions, and other clarifications to the Plan. As described in Section 2.1 of this document, the Final Plan incorporates considerations for additional key habitat areas beyond OOWNP, where the pipeline will be constructed outside of roadways. The wildlife and habitats in OOWNP have been studied and documented as part of park planning and management. OOWNP wildlife and habitats are similar to those found at other key habitat areas along the pipeline alignment; therefore, the Plan focuses on OOWNP as context for understanding other areas to which the Plan applies.

This document compiles the comments received during the community review period and provides responses to each comment. It also summarizes how the Final Plan was revised in response to the comments received.

1.1 Public Review Process

The community review period for the Draft Plan began January 20, 2021, and ended February 2, 2021. On January 20, 2021, WWSP staff provided an overview of the Plan with members of various stakeholder groups that have expressed interest, including:

- Protect Orenco Woods Nature Park
- Urban Greenspaces Institute
- Portland Audubon
- Centers for Biological Diversity
- Oregon Department of Fish and Wildlife
- Clean Water Services
- Metro

On January 20, 2020 the Draft Plan was posted on the WWSP's website (<http://www.ourreliablewater.org/cornelius-pass-road-pipeline-project/>) and was distributed to community members through:

- WWSP's newsletter blast email list
- The City of Hillsboro's Parks e-newsletter list
- The City of Hillsboro's Twitter feed
- The City of Hillsboro's Facebook page (including the Spanish language page)

1.2 Responses to Comments

This document contains written responses to comments received from stakeholders, including individuals and groups. Where an issue has received similar comments from a significant number of individuals, WWSP has consolidated responses while addressing all substantive issues. These Consolidated Comment Responses (CCRs) are presented in Section 2, "Consolidated Comment Responses." CCRs are provided once in Section 2, and reference/link related comments submitted from more than one individual. Individual responses to comments are presented in Section 3, "Individual Comment Responses."

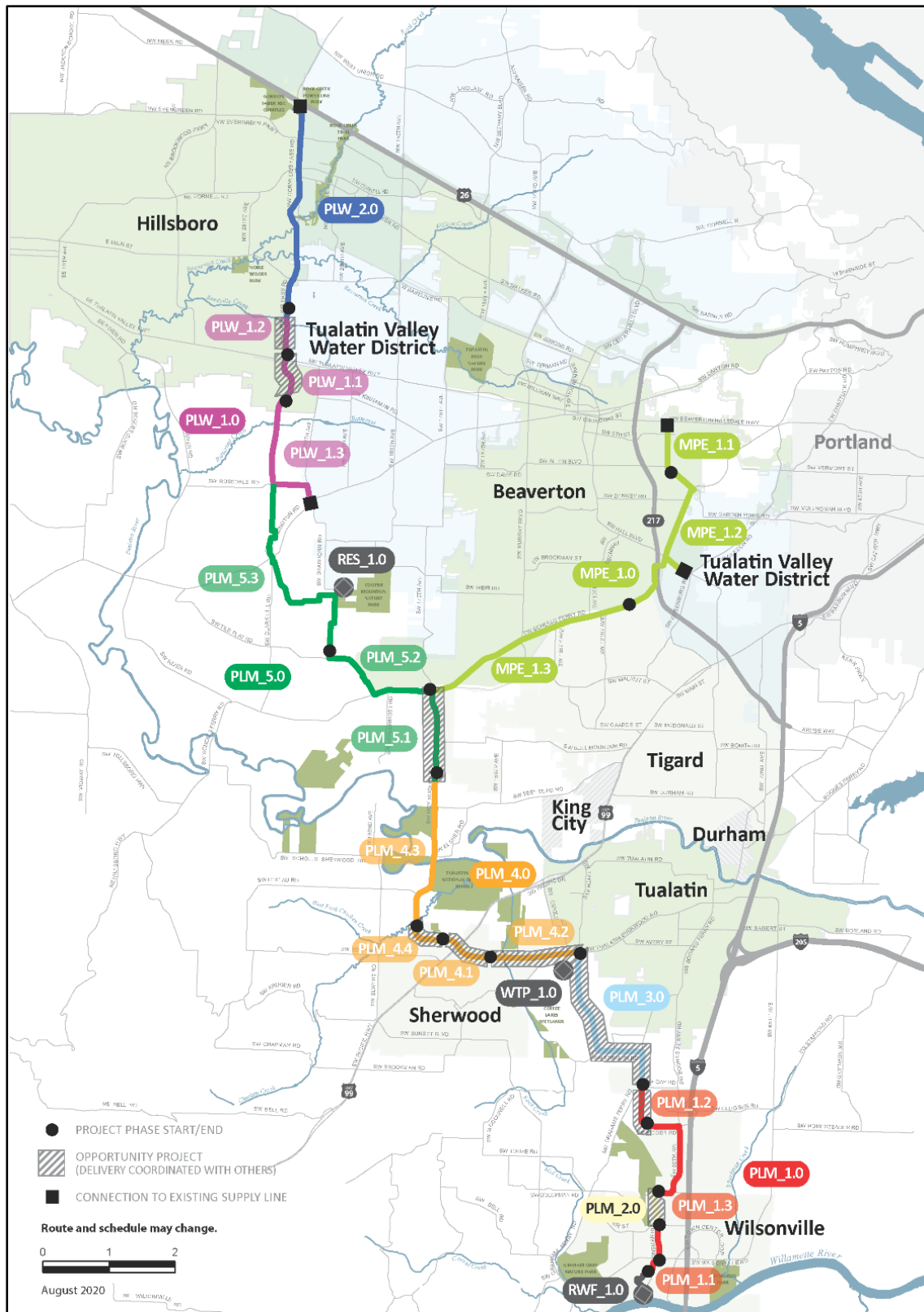


Figure 1 – Willamette Water Supply System Map

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Page 3

Responses to Comments on the Draft Wildlife
Protection and Adaptive Management Plan for
Orenco Woods Nature Park



Figure 2 – Orenco Woods Nature Park Map Showing Alignment of the Future PLW_2.0 Pipeline

2 Consolidated Comment Responses

WWSP received 12 letters commenting on the Draft Plan. Some comments were made frequently, demonstrating common concerns among stakeholders. To present responses that address all aspects of these related comments, WWSP prepared these CCRs. The CCRs allow WWSP to provide broader context in the response than may be possible when making individual responses. Many of the individual responses provided in Section 3 rely on all or portions of the CCRs.

This section presents 6 CCRs, as follows:

- **CCR-1:** Expanding the Plan to Additional Areas Outside of OOWNP
- **CCR-2:** Nesting Birds and Vegetation Removal
- **CCR-3:** Adaptive Management Decision Process
- **CCR-4:** Future Communications with Environmental Compliance Lead
- **CCR-5:** Environmental Controls Specifications
- **CCR-6:** Key References

2.1 CCR-1: Expanding the Plan to Additional Areas Outside of OOWNP

Several commenters point out that the wildlife corridor associated with the Rock Creek riparian corridor extends to the north, beyond OOWNP, and ask for specific wildlife protections for PLW_2.0 construction activities in that area. One commenter also raised concerns about wildlife passage at Beaverton Creek, south of OOWNP. In response to this input, WWSP has expanded the Final Plan to address the following additional areas:

- North of OOWNP, including a temporary staging area at the Hillsboro Fire and Rescue – Cherry Lane Fire Station (fire station) and the old railroad corridor roughly paralleling NE 73rd Avenue; and,
- Beaverton Creek, south of OOWNP.

Revisions to expand the Plan to these additional areas were made throughout the Plan as applicable. A few revisions which address specific comments on this topic are highlighted below.

Various commenters note that they have seen wildlife in the field north of OOWNP and south of the fire station, where WWSP plans to have a temporary staging area. Commenters document observations that wildlife (presumably, deer) “...entering at the northeast portion of the area beds down in the tall grasses and is seen traveling south along the east side of the field.” The commenters highlight concerns that WWSP staging activities, in the western portion of the field, present direct hazards if wildlife enter the staging area or indirect hazards if staging

activity prompts wildlife to venture into Cherry Lane, where they could encounter construction and fire station traffic.

To address these concerns, commenters advocate for a minimum 8-foot-high fence, “along the entire east side of the open field ending at the entrance of the fire station driveway and extending slightly east to securely enclose the area.” In response to this comment, Objective 4 of the Plan (see page 19 of the Final Plan) is revised to include the following provision:

- Install and maintain a minimum 8-ft chain link fence extending from the staging area along the length of the Cherry Lane Fire Station Driveway frontage and extending slightly east to discourage wildlife from entering the roadway from the Rock Creek riparian corridor.

Implementing this provision is dependent on obtaining permission from Hillsboro, the property owner. WWSP has initiated this discussion with Hillsboro and will seek temporary easements to install temporary fencing along NE Cherry Lane. The temporary fencing will remain in place for the duration of the use of the staging area and will be removed when construction is complete.

Similarly, Objective 4 in the Plan (see page 19 of the Final Plan) is revised to apply to Beaverton Creek, with the following provision:

- Install and maintain a 6-ft chain link fence (with top rail or similar) along the NE Cornelius Pass Road frontage at the northern and southern bridge rails on the western side of NE Cornelius Pass Road, to discourage wildlife from entering the roadway to avoid construction and redirect them toward the Beaverton Creek riparian corridor.

At NE Cherry Lane, the primary concern is about deer leaving the riparian corridor and entering the roadway; thus, the higher, 8-foot fence is used. At Beaverton Creek, the objective is to encourage deer and other wildlife from leaving the riparian corridor to enter NE Cornelius Pass Road, while still allowing deer in the roadway to safely jump the fence to return to the corridor. The shorter height (6 feet instead of 8 feet) and top rail provide this ability.

2.2 CCR-2: Nesting Birds and Vegetation Removal

Several comments expressed support for measures to minimize impacts to birds, such as removing vegetation outside of the nesting season or conducting nesting deterrence ahead of removing vegetation. Several comments also requested that the timing of vegetation removal and nesting deterrence consider bird species which may nest earlier than the nesting period identified in the Draft Plan, such as owls and hummingbirds. In response to this input, and in consultation with experts (including Susan Barnes, Oregon Department of Fish and Wildlife (ODFW), and Bob Sallinger, Portland Audubon), WWSP has revised considerations for protecting nesting birds in the Final Plan.

The Draft Plan focused first on removing vegetation outside of the primary nesting season, identified as March 1 through August 31. Avoiding vegetation removal during this period has been a best practice when considering the state of Oregon as a whole. In consultation with experts, WWSP now recognizes that a more appropriate window for the primary nesting season in the PLW_2.0 area is April 15 through July 31 and recognizes an additional early nesting season for the area beginning February 1. Therefore, the Final Plan has been revised to focus on removing vegetation outside of the early and revised primary nesting seasons, taken together as February 1 through July 31. These nesting periods are consistent with those identified by the City of Portland (2017) and are supported by experts consulted by WWSP on the subject during Plan revision.

The Draft Plan included a commitment to working with the U.S. Department of Agriculture, Animal and Plant Inspection Services (APHIS) to provide nesting deterrence ahead of vegetation removal, should vegetation removal need to occur during the nesting season. This commitment remains in the Final Plan. The Final Plan is revised to include a further commitment to consult with APHIS regarding the need for nesting deterrence ahead of vegetation removal before the start of the nesting season to provide further protections for birds that may nest particularly early.

Lastly, the Final Plan is revised to include provisions for surveying for active nests ahead of vegetation removal from January 1 through July 31. If active nests are located during these surveys, the Environmental Compliance Lead will work with the Project Manager and Contractor to determine whether avoidance or relocation is feasible. If scheduling, nesting deterrence, relocation, and avoidance are collectively insufficient to avoid impacting nesting birds, WWSP will rely on impact authorizations under the applicable authorities (take permit obtained from U.S. Fish and Wildlife Service (USFWS) ahead of PLW_2.0 construction) only as a last resort.

2.3 CCR-3: Adaptive Management Decision Process

Some commenters requested more information about how adaptive management will be managed, including what information will be considered in making formal approvals for changes, and the timing for making those decisions. Specific concerns include the need to consider more than cost impacts, and the potential for a lengthy or stalled formal review process to result in impacts to wildlife. This CCR responds to these comments on approval timelines and decision factors separately.

Approval Timeline: As described in the Draft Plan, many minor changes and particularly corrective actions, such as repairing a fallen fence section, can be implemented immediately with, at most, approval by the Project Construction Manager. Because they do not require a formal review process, these decisions are typically made the same day the change is proposed.

Changes which impact the Contractor's scope, budget, or schedule, however, will go through a more formalized process, as shown in Figure 6 of the Draft Plan. The time needed to reach a decision through this formal process will vary based on many factors – including the level of approval required (Functional Manager, Change Committee, Program Director, Management Committee, WWSS Board of Commissioners) and whether a change in project design and/or permits are needed in order to implement the change – and therefore cannot be pre-determined. Typically, the fewer approvals needed, the less time required to make a change. A change which requires a change in design or a new or modified permit requires more time to implement. However as stated in Section 2.2.3 of the Draft Plan, "The Environmental Compliance Lead has the authority to stop construction activity when an immediate threat to wildlife or wildlife habitat is perceived to exist. Construction activity will not resume until the issue is addressed in a manner acceptable to the Environmental Compliance Lead and Project Manager." This provision means that a construction activity will not continue if it poses a threat to wildlife while awaiting a formal approval for a change.

Decision Factors: While the WWSP has a responsibility to the WWSS member agencies' ratepayers to perform work in a cost-efficient manner, cost is not and should not be the only consideration. In WWSP's formal change management process, cost is just one of many factors the approving body (whether it is the Functional Manager, Change Committee, Program Director, Management Committee, or WWSS Board of Commissioners) must consider when reviewing a proposed change.

The documentation requesting a change is required to provide for non-cost considerations; the applicable non-cost considerations vary by the nature of the proposed change, but typically include: schedule impacts, environmental impacts, permitting and regulatory requirements, real estate impacts, public outreach, public interests and impacts, procurement needs, safety and security, impacts on other projects, and operations and maintenance. The WWSS Commission has committed to implementing the Plan, therefore meeting the objectives of the Plan will necessarily be an important and explicit consideration for approving changes in the areas covered by the Plan.

2.4 CCR-4: Future Communications with Environmental Compliance Lead

Some commenters requested quarterly stakeholder briefings during construction that include direct communication with the Environmental Compliance Lead. In response to this input, WWSP intends to hold regular briefings during construction. The schedule and format for these briefings will be established closer to construction (when the construction schedule itself is established) but will be held approximately once every three months, with the first briefing to be held before construction begins in the areas covered in the Plan. The Plan has been revised to include this commitment (see page

The briefing format may be virtual or live, and attendees will include the Project Manager and Environmental Compliance Lead, among others. Briefings will include updates on recent and upcoming PLW_2.0 construction activities, with a focus on steps taken to protect wildlife, adaptive management measures taken during construction, and outcomes of those actions. Attendees will have the opportunity to ask questions directly to WWSP staff in attendance.

Notifications of upcoming briefings will be provided through the existing project update email list and other notification channels, as appropriate. Meeting announcements will also be posted to the ourreliablewater.org website.

If stakeholders have questions or concerns they would like addressed between briefings, they may contact info@ourreliablewater.org. Comments and concerns will be directed to the Environmental Compliance Lead or other WWSP staff as appropriate for timely resolution. As appropriate, issues raised in between briefings will also be addressed at the next briefing.

2.5 CCR-5: Environmental Controls Specifications

Questions regarding Attachment 1 to the Draft Plan, Draft PLW_2.0 Specification Section 01 57 00 Environmental Controls, were received from some commenters. This CCR provides clarification regarding the nature and status of this document.

Attachment 1 to the Draft Plan is a draft contract specification. As stated in Section 2.1 of the Draft Plan, together with the pipeline design drawings:

...specifications are the main documents governing the specific work and generally hold precedence over the other documents in the event of any inconsistencies or conflicts. Many of the measures described below [in Section 2.1 of the Draft Plan] are to be implemented through the drawings and specifications; in particular, Specification Section 01 57 00 Environmental Controls. The current draft Specification Section 01 57 00 Environmental Controls (that is, without the enhancements identified below) is provided in Attachment 1.

In this document, “Owner” refers to the WWSS Commission and its representatives.

The Final Plan is revised to remove the draft specification primarily because the draft specification is to be revised as design progresses and will become part of the contract documents once finalized, whereas the Final Plan will be finalized separately. Both the Final Plan and the final specification will become contract documents, and do not need to be attached to each other in order to be effectively implemented. Including the draft specification also understandably caused some confusion among readers, as noted in several comments. This is in part because the draft specification is not a stand-alone document and is not written to provide clear information to the public (rather it is written to provide direction to the Contractor, when taken together with various other materials).

2.6 CCR-6: Key References

Several commenters requested that WWSP make available to the public various documents. Requests included specific documents, such as the Biological Opinion prepared by the National Marine Fisheries Service (NMFS) regarding the WWSS, and more general requests, such as those documents referenced in the Draft Plan.

In response to this input, please see www.ourreliablewater.org/orengo-woods-nature-park/, where various materials referenced in the Plan will be made available for viewing. The materials that will be made available online include most items listed in the references section of the Plan (Section 4) and key permits and related documents referenced in this document. Some materials referenced in Section 4 of the Plan may not be provided at www.ourreliablewater.org/orengo-woods-nature-park/ due to copyright, confidentiality, or similar concerns; in some cases, links may be provided to websites hosted by others where the WWSP accessed the relevant material. Draft materials under development by WWSP and its consultants will not be posted, however formal drafts, final versions, or materials for which WWSP is seeking community input will be posted as applicable. If a community member is seeking a specific document that is not provided at www.ourreliablewater.org/orengo-woods-nature-park/, they are encouraged to contact info@ourreliablewater.org to see whether the material is available.

Revisions to the Plan are not required in response to this comment.

3 Individual Comment Responses

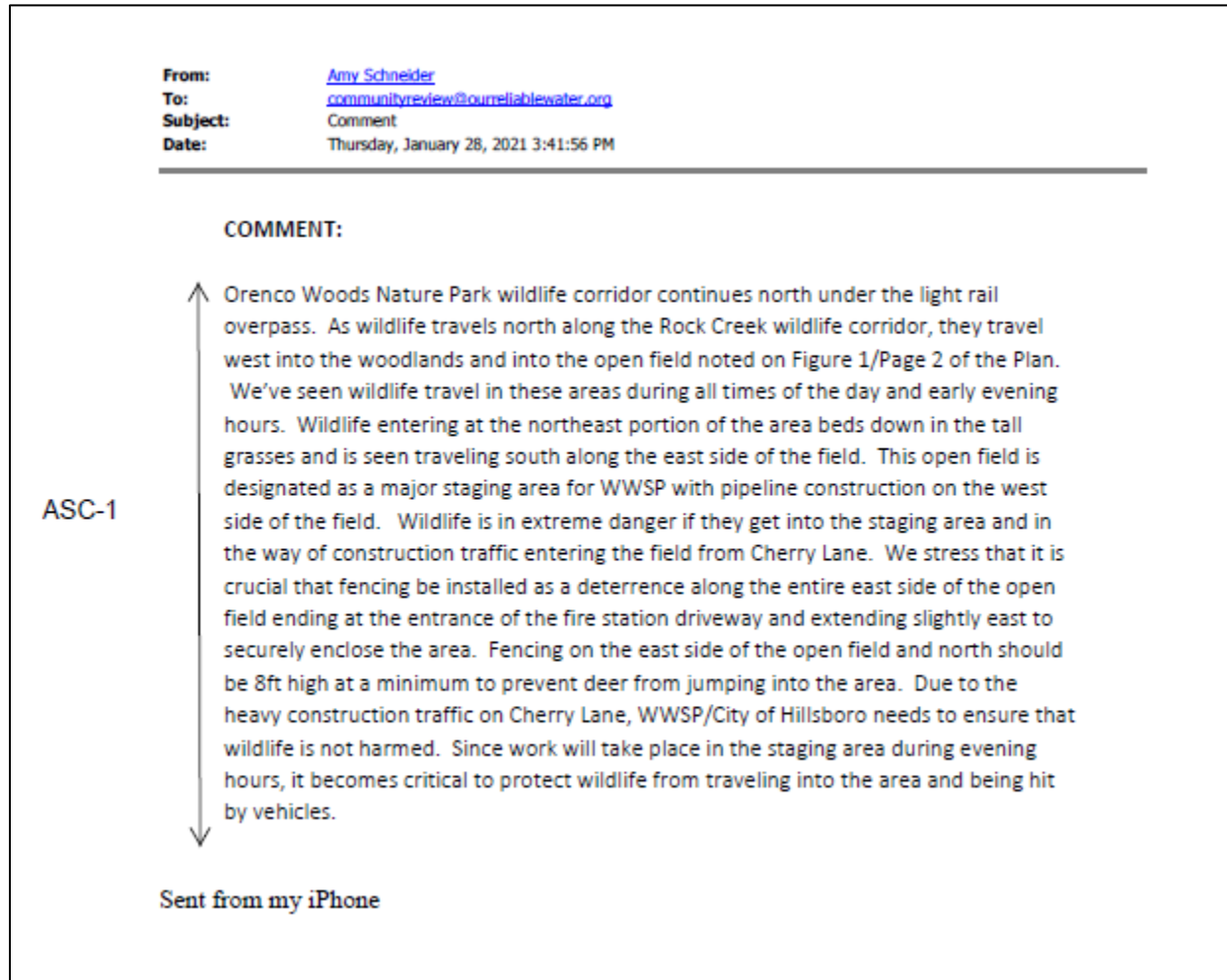
This section contains the comments received on the Draft Plan, and responses to those comments. 12 letters were received, containing over 70 comments. Written responses are provided for each comment. The range of comments includes incorporating changes in the Final Plan, clarifying content from the original Draft Plan, acknowledging the comment for implementation outside of the Plan, or explaining why certain comments do not require further response.

Each comment in the comment letters was assigned a number, in sequential order (note that some letters have more than one comment). Responses to the comments follow the comment letter, and are also numbered, corresponding to the numbers assigned to the comments in the letter. The numbers were then combined with an abbreviation for the commenter (example: ASC-1). A list of all commenters, including individuals and groups, and their abbreviations is provided in Table 1.

Table 1 – List of Commenters on Draft Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park

Name and/or Title	Comment Abbreviation
Individuals	
Amy Schneider	ASC
Catherine Allan	CAL
Jane Murphy	JMU
Janice Green	JGR
Jenny Schlanser	JSC
Lauren Carroll-Allan	LCA
Scott Spires	SSP
Sharon Donnelly	SDO
Starla Roels and Rob Roels	ROE
Stephanie Schoening	SSC
William Spainhour	WSP
Special Interest Groups	
Protect Orenco Woods Nature Group	PRO

3.1 Amy Schneider

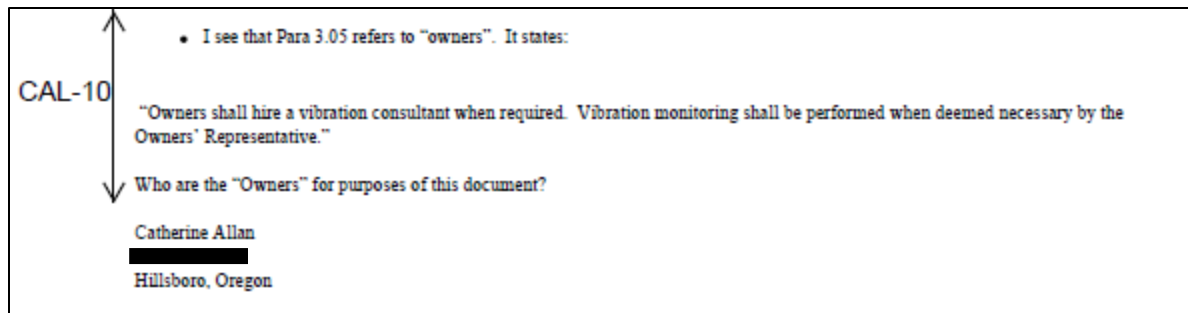


Response to Comment from Amy Schneider

ASC-1: See CCR-1 in Section 2.1 of this document.

3.2 Catherine Allan

	<p>From: Catherine Allan To: communityreview@journalablewater.org Subject: Comments to Wildlife Protection Plan for Orenco Nature Park Date: Saturday, January 30, 2021 3:58:03 PM</p> <hr/> <p>I am so relieved that you have heard our pleas for an adaptive management process to protect the wildlife and natural resources within Orenco Nature Park.</p> <p>I have the following comments/requests concerning the draft plan:</p> <p>1. Transparency During the Pipeline Work - We all want assurance, in real time, that the management plan is working.</p> <p>CAL-1 In the interests of transparency, I ask that all reports by the Environmental Compliance Lead as well as measures taken in response, be made public, not just post-construction but as these actions are taken so that the interested persons and environmental groups may follow the process.</p> <p>Another option: Regular video conference call updates by the wildlife biologist.</p> <p>2. Wildlife Corridors - For protecting animals using wildlife corridors, the draft plan envisions using fencing, no nighttime lighting, and shortened open trench areas. Have the environmental experts/biologists consulted on this project made any other specific recommendations? If so, I ask that those recommendations and discussions be made public.</p> <p>CAL-2</p> <p>CAL-3 While I understand that this adaptive plan pertains only to Orenco Nature Park, everyone is well aware by now that the wildlife corridor existing within the park extends north from the park along the west side of Cornelius Pass Road into a Natural Resources Overlay area, wooded area, the field just north of the light rail line (planned pipeline staging area), and up along the old rail bed berm (pipeline route). It wouldn't do much good to only take protective action within the park when the effect will surely be to shoo the animals north where no protection exists. Any adaptive management plan with respect to the corridors within the park should therefore be extended to apply as well to :</p> <ul style="list-style-type: none"> • The eastern side of the field to the north of the park, and • The old rail bed area. <p>CAL-4 As I read the plan, the intent is to install fencing along Cornelius Pass Road north from the park area to the bridge rails. See page 15 of the Draft Plan. That description should add detail showing how you intend to protect the deer entering the area north of the park described above.</p> <p>3. Protecting Nesting Areas - In the draft Environmental Controls, there is a process in place for protecting nesting areas of migratory birds. And I see on p. 15 of the draft plan a focus on removing vegetation outside the nesting season which is stated to be from March through August. However, hummingbirds can be early nesters and may begin nesting as early as December. (Portland Audubon). The draft plan should be amended to include protective measures for hummingbird nesting areas during their longer nesting season.</p> <p>CAL-5</p> <p>CAL-6 I don't see any provision for checking for nests before construction begins and before vegetation is removed. Please advise if and when there will be a pre-construction check for nests within the construction zone and, if so, who will be in charge of this activity.</p> <p>CAL-7 We have already encountered problems with WWS on the Stonewater HOA private property to the north. When their surveyor entered the HOA property, without permission or notice, to mark the lines of WWS's planned pipeline easement, the surveyor cut away some of the thicket. Shortly after he left, hummingbirds who nest in that area became frantic. We believe he destroyed at least one nest. We are hoping that WWS will fully acknowledge its legal duty to protect nesting areas of these birds.</p> <p>CAL-8 4. Environmental Controls - Section 01 57 00 (Environmental Controls) is labeled as a draft for PLW 2.0 and dated November 2020. It is attached at the end of the draft plan. Is this a draft contract specification?</p> <p>CAL-9 As an affected homeowner, this is the first I've seen this document which was clearly in existence when I objected to the staging area permit application because of the lack of information provided to us on mitigation for air pollution, noise, vibration, etc. Here are a few preliminary questions:</p> <ul style="list-style-type: none"> • Why was this draft not made previously made available to homeowners who will be most affected?
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Response to Comments from Catherine Allan

CAL-1: See CCR-4 in Section 2.4 of this document.

CAL-2: The commenter asks whether any “environmental experts/biologists consulted on this project” have made specific recommendations that are not reflected in the Plan. WWSP has consulted various subject matter experts in developing the Plan. The plan reflects all recommendations made to date by these experts. All recommendations received due consideration by other subject matter experts for compatibility with the suite of measures ultimately included in the Plan.

Revisions to the Plan are not required in response to this comment.

CAL-3: See CCR-1 in Section 2.1 of this document.

CAL-4: The commenter asks how WWSP intends to protect deer entering OWNP from the area north of OWNP, and references fencing to be put in place along Cornelius Pass Road. The fencing proposed along Cornelius Pass Road is along the southeast edge of OWNP only and will not extend to the northern edge of OWNP. Objective 4, Minimize Obstacles to Wildlife Passage Along Rock Creek and Beaverton Creek Corridors, Measure 1, provides direct protection to deer entering OWNP from the north under the TriMet light rail bridge, the main entry point identified for deer moving into OWNP from the north. Recognizing the importance of this passage corridor, the plan to implement Objective 4, Measure 1, includes several provisions specifically tailored to protect passage in this area.

Revisions to the Plan are not required in response to this comment.

CAL-5: See CCR-2 in Section 2.2 of this document.

CAL-6: See CCR-2 in Section 2.2 of this document.

CAL-7: The Migratory Bird Treaty Act (MBTA) protects most species of birds in Oregon and prohibits the removal of nests containing eggs and dependent young. WWSP does not have information related to impacts to nesting birds during the specific incident described in the comment and is committed to complying with the MBTA. In addition to complying with MBTA,

WWSP will continue to make sure that contractors are aware of and comply with commitments regarding access to private property.

No revisions to the Plan are made in response to this comment because compliance with the MBTA is already required.

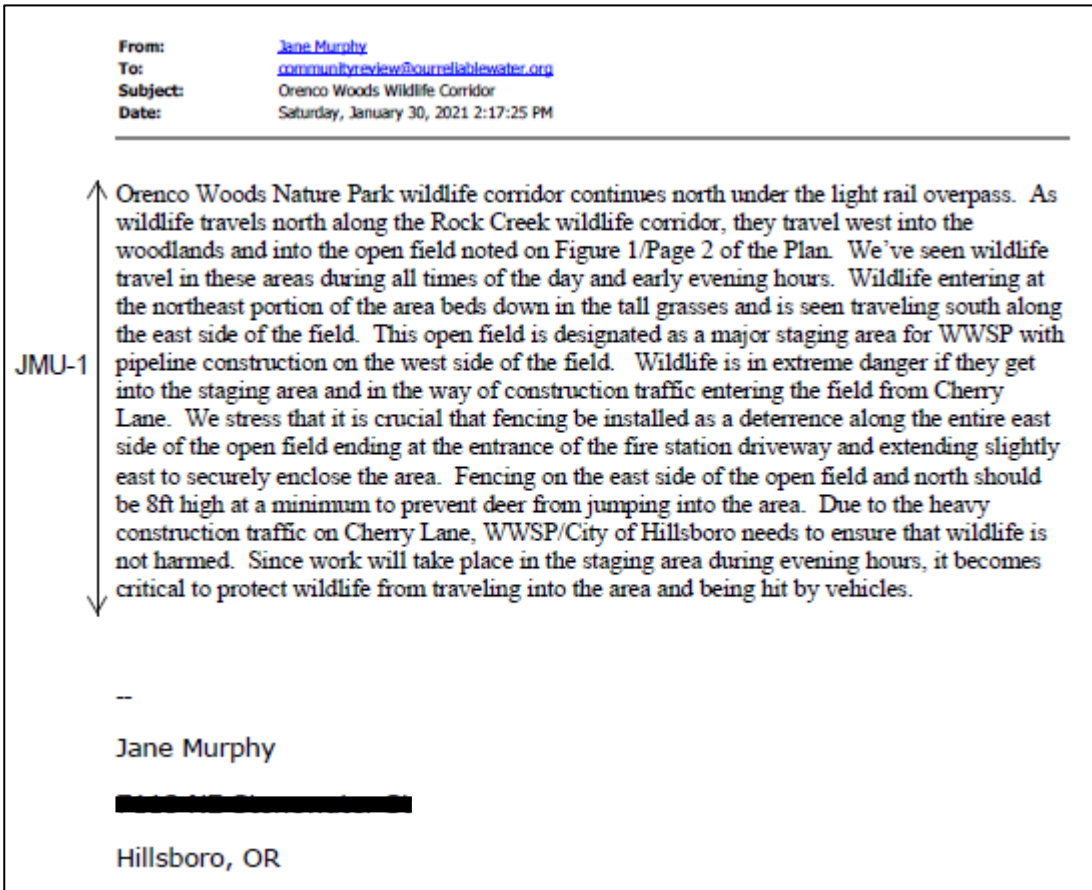
CAL-8: The commenter asks whether Attachment 1 to the draft plan is a draft contract specification; it is. See also CCR-5 in Section 2.3 of this document.

CAL-9: The commenter asks why the draft Specification Section 01 31 30 was not made available earlier and specifically, why it was not made available as part of the land use permitting process for the Temporary staging area on Cherry Lane. The draft specification section was not required in support of the land use permit application and was therefore not submitted with that application. In response to public comments received on the application, WWSP prepared a memorandum responding directly to comments; Hillsboro Planning Department staff are reviewing that memorandum and will share responses with commenters.

The draft specification was not provided independently and is removed from the Final Plan. This is in part because the draft specification is not a stand-alone document and is not written to provide clear information to the public (rather it is written to provide direction to the Contractor, when taken together with various other materials). See also CCR-5 in Section 2.3 of this document.

CAL-10: See CCR-5 in Section 2.3 of this document.

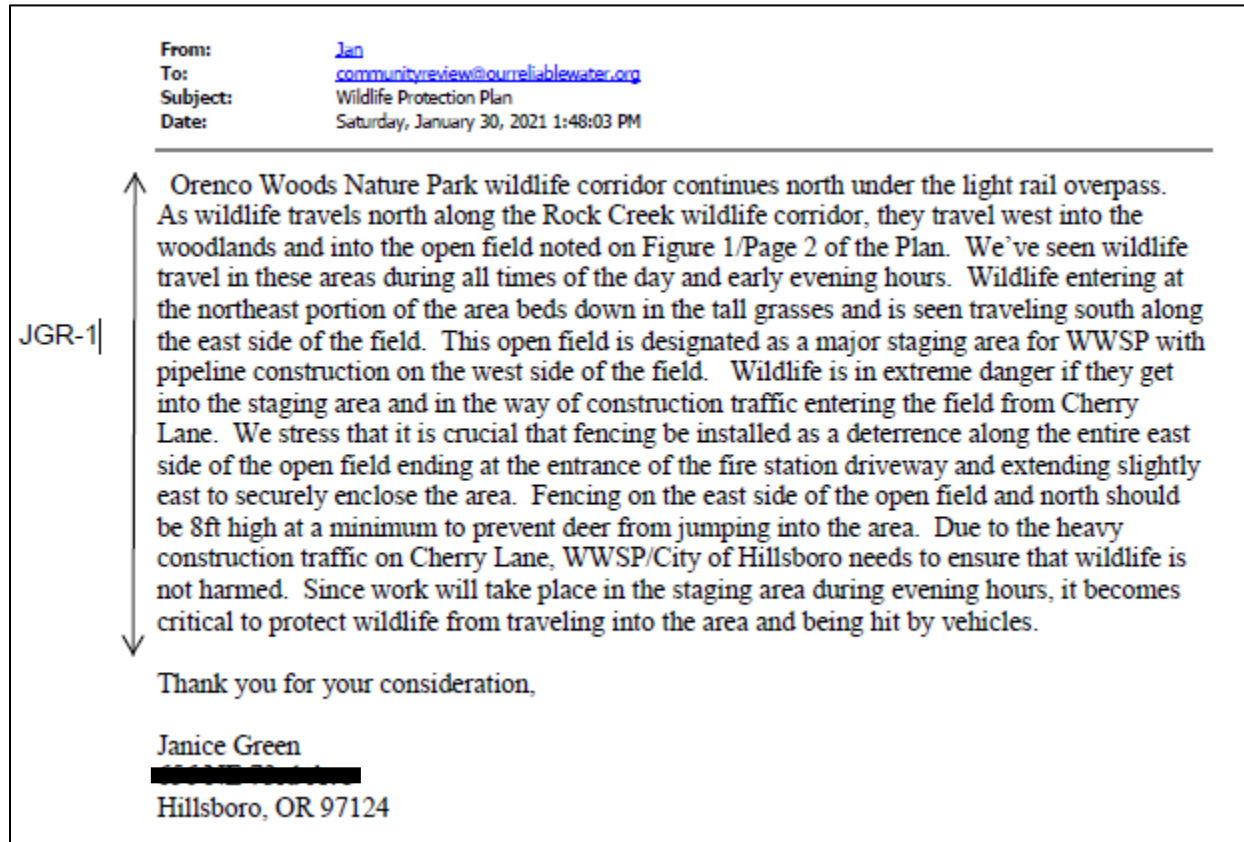
3.3 Jane Murphy



Response to Comment from Jane Murphy

JMU-1: See CCR-1 in Section 2.1 of this document.

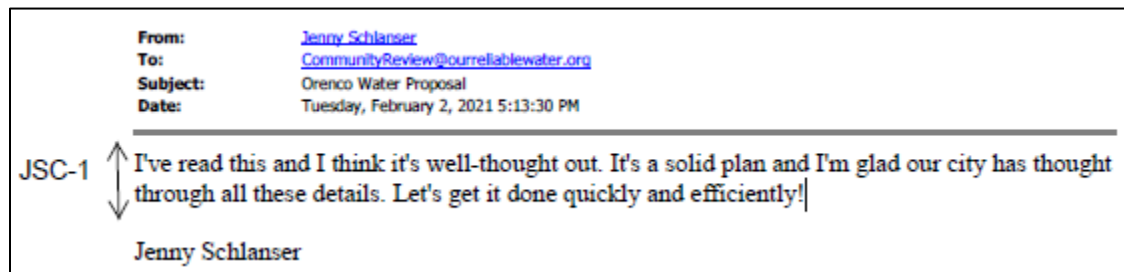
3.4 Janice Green



Response to Comment from Janice Green

JGR-1: See CCR-1 in Section 2.1 of this document.

3.5 Jenny Schlanser



Response to Comment from Jenny Schlanser

JSC-1: This comment is noted.

3.6 Lauren Carroll-Allan

	<p>From: Lauren Carroll-Allan To: communityreview@journalablewater.org Subject: CORNELIUS PASS ROAD PIPELINE PROJECT Date: Saturday, January 30, 2021 7:27:19 PM</p> <hr/> <p>I have the following comments/requests concerning the Orenco Woods Nature Park Draft Wildlife Protection and Adaptive Management Plan:</p>
LCA-1	<p>1. Transparency During the Pipeline Work - We all want assurance, in real time, that the management plan is working.</p> <p>In the interests of transparency, I ask that all reports by the Environmental Compliance Lead as well as measures taken in response, be made public, not just post-construction but as these actions are taken so that the interested persons and environmental groups may follow the process.</p> <p>Another option: Regular video conference call updates by the wildlife biologist.</p>
LCA-2	<p>2. Wildlife Corridors - For protecting animals using wildlife corridors, the draft plan envisions using fencing, no nighttime lighting, and shortened open trench areas. Have the environmental experts/biologists consulted on this project made any other specific recommendations? If so, I ask that those recommendations and discussions be made public.</p>
LCA-3	<p>While I understand that this adaptive plan pertains only to Orenco Nature Park, everyone is well aware by now that the wildlife corridor existing within the park extends north from the park along the west side of Cornelius Pass Road into a Natural Resources Overlay area, wooded area, the field just north of the light rail line (planned pipeline staging area), and up along the old rail bed berm (pipeline route). It wouldn't do much good to only take protective action within the park when the effect will surely be to shoo the animals north where no protection exists. Any adaptive management plan with respect to the corridors within the park should therefore be extended to apply as well to:</p> <ul style="list-style-type: none"> • The eastern side of the field to the north of the park, and • The old rail bed area.
LCA-4	<p>As I read the plan, the intent is to install fencing along Cornelius Pass Road north from the park area to the bridge rails. See page 15 of the Draft Plan. That description should add detail showing how you intend to protect the deer entering the area north of the park described above.</p>
LCA-5	<p>3. Protecting Nesting Areas - In the draft Environmental Controls, there is a process in place for protecting nesting areas of migratory birds. And I see on p. 15 of the draft plan a focus on removing vegetation outside the nesting season which is stated to be from March through August. However, hummingbirds can be early nesters and may begin nesting as early as December. (Portland Audubon). The draft plan should be amended to include protective measures for hummingbird nesting areas during their longer nesting season.</p>
LCA-6	<p>I don't see any provision for checking for nests before construction begins and before vegetation is removed. Please advise if and when there will be a pre-construction check for nests within the construction zone and, if so, who will be in charge of this activity.</p>

Lauren Carroll-Allan
[REDACTED]
Hillsboro, Oregon

Response to Comments from Lauren Carroll-Allan

LCA-1: See CCR-4 in Section 2.4 of this document.

LCA-2: See response to CAL-2 in Section 3.2 of this document.

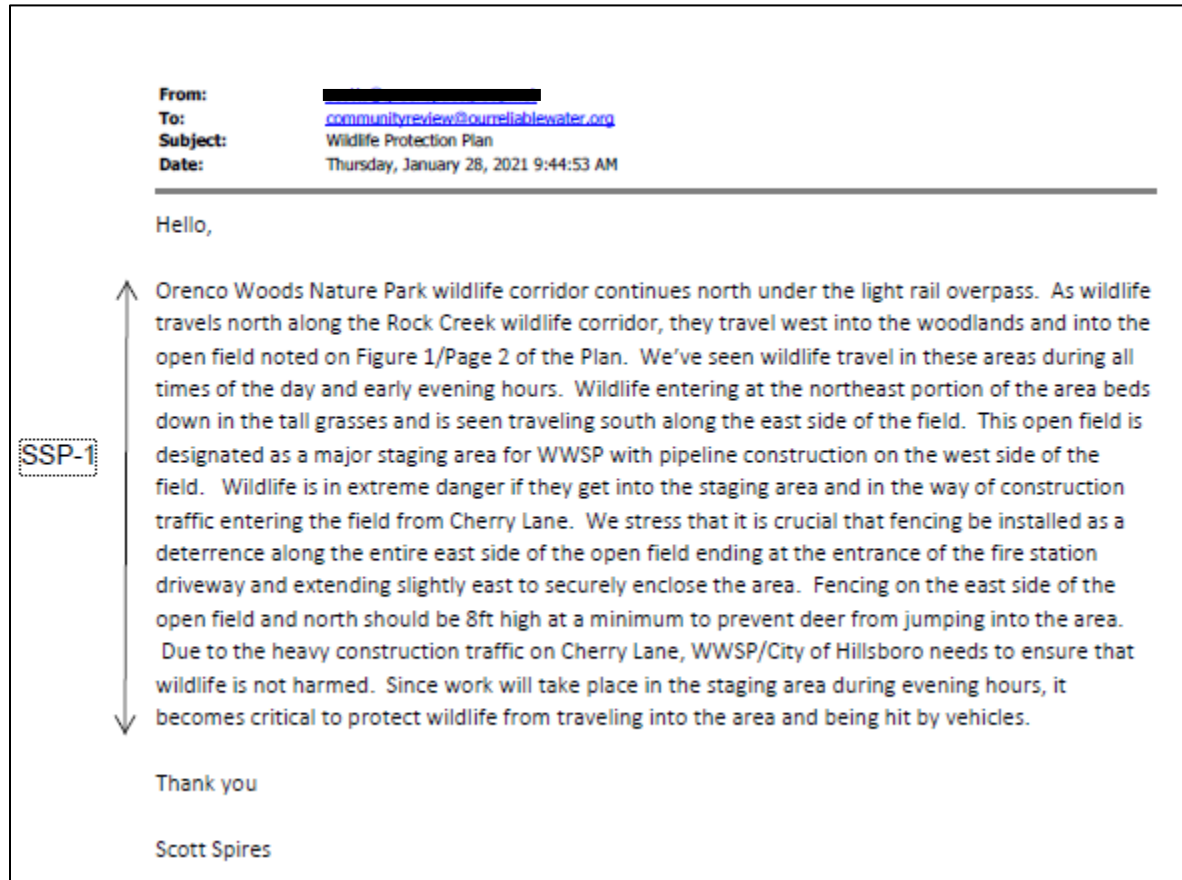
LCA-3: See CCR-1 in Section 2.1 of this document.

LCA-4: See response to CAL-4 in Section 3.2 of this document.

LCA-5: See CCR-2 in Section 2.2 of this document.

LCA-6: See CCR-2 in Section 2.2 of this document.

3.7 Scott Spires



Response to Comment from Scott Spires

SSP-1: See CCR-1 in Section 2.1 of this document.

3.8 Sharon Donnelly

SDO-1

From: [redacted]
To: communityreview@ourreliablewater.org
Subject: Orenco Woods Nature Park and the WWSP pipeline construction. Protecting the wildlife.
Date: Thursday, January 28, 2021 12:31:56 PM

Hello!

↑ Orenco Woods Nature Park wildlife corridor continues north under the light rail overpass. As wildlife travels north along the Rock Creek wildlife corridor, they travel west into the woodlands and into the open field noted on Figure 1/Page 2 of the Plan. We've seen wildlife travel in these areas during all times of the day and early evening hours. Wildlife entering at the northeast portion of the area beds down in the tall grasses and is seen traveling south along the east side of the field. This open field is designated as a major staging area for WWSP with pipeline construction on the west side of the field. Wildlife is in extreme danger if they get into the staging area and in the way of construction traffic entering the field from Cherry Lane. We stress that it is crucial that fencing be installed as a deterrence along the entire east side of the open field ending at the entrance of the fire station driveway and extending slightly east to securely enclose the area. Fencing on the east side of the open field and north should be 8ft high at a minimum to prevent deer from jumping into the area. Due to the heavy construction traffic on Cherry Lane, WWSP/City of Hillsboro needs to ensure that wildlife is not harmed. Since work will take place in the staging area during evening hours, it becomes critical to protect wildlife from traveling into the area and being hit by vehicles.

↓

Sincerely,
Sharon Donnelly
[redacted]
Hillsboro, OR 97124

Response to Comment from Sharon Donnelly

SDO-1: See CCR-1 in Section 2.1 of this document.

3.9 Starla Roels and Rob Roels

Starla and Rob Roels
Hillsboro, OR 97124

February 1, 2021

Via Electronic Mail
communityreview@ourreliablewater.org
Willamette Water Supply Program
City of Hillsboro

Re: Comments on WWSP Draft Wildlife Protection Plan

To Whom It Does Concern:

We appreciate the opportunity to submit these comments on the Willamette Water Supply Program (WWSP) "DRAFT Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park" (Jan. 20, 2021) (hereinafter "Draft Plan").

We are long-time residents of Hillsboro, having lived at our address west of Cornelius Pass Road and Quatama for over 20 years. We were actively involved in the past effort to preserve the Orenco Woods golf course and prevent the mass development of the property, and now are very concerned about this new threat to the Orenco Woods Nature Park and its wildlife. The Park is incredibly important to us and to many people in the communities that surround it. We are in the Park several times per week, enjoying it throughout the changing seasons, and observing the use of the Park by an ever growing variety of wildlife over the years since it first opened. In particular, we are avid birdwatchers and spend a lot of time watching birds there, and every year we notice new bird species going through and using the Park. Wildlife we have seen there include many deer, rabbits, coyotes, Douglas' squirrels and Western gray squirrels, raccoons, frogs, spawned out fish (presumably salmonids, though possibly steelhead), and a variety of birds. We also saw the beaver in 2019 (not the nutria, which we also see regularly).

We offer the following general and specific comments on the Draft Plan for consideration:

General Comments

ROE-1 ↑ While we support having a resilient water supply and understand the public need, we are disheartened about the decision to run the pipeline through the Park and are extremely concerned about the implications of doing so for the wildlife we enjoy there and the recovery of any habitat that is destroyed or significantly damaged during the process.

ROE-2 ↑ We nevertheless appreciate the WWSP and the City of Hillsboro and other stakeholders coming together to put a plan in place to minimize the impacts during construction and require certain restoration work at the end of the project. We appreciate the assertion in the Draft Plan that the WWSP and the City of Hillsboro are committed to environmental stewardship and to

ROE-2 (contd.)	↓	minimizing and avoiding impacts to the natural wildlife and their habitats in the Park. We also appreciate the role the City of Hillsboro is taking toward fulfilling its responsibility for wildlife on behalf of the Hillsboro community, and expect that responsibility to be fulfilled. We will be paying attention and holding the responsible parties accountable.
ROE-3	↑	We fully support the incorporation of the additional measures and requirements identified in the Draft Plan for the design and construction specifications. But, we also think improvements can and should be made. Overall, we believe the Draft Plan takes a number of very important steps to help minimize the detrimental impact that the pipeline construction will certainly have on the Park's birds, mammals, fish, and amphibians. However, the Draft Plan and the Environmental Controls cross-reference several other documents that we did not have available to us to review as part of this public comment process on the Draft Plan itself, so it is challenging and sometimes impossible for us as community stakeholders to know with any certainty whether the Draft Plan and the implementation of the final version of the Plan will fully comply with applicable law.
ROE-4	↑	We thus request that links to key documents being relied on in the Plan be made readily available for public review. Moreover, it has been incredibly difficult to find meaningful information online from the WWSP or the City regarding the impacts of this project on the Park and how we as community stakeholders can participate. The WWSP and the City should themselves be making this information readily available to the public. We have actively engaged in public processes for other large projects impacting wildlife and habitat, such as dam removal projects, where such information is easily found on a website for access by all stakeholders. We think having a webpage as part of the project's larger website, specific to the Orenco Woods Nature Park, is critical. The links to the key documents could be made available there, as well as up-to-date information on the steps being required to protect and mitigate wildlife and habitats, changes that are being considered and addressed, and advance notice of public meetings, etc., all of which are key for transparency to the public. Additionally, a 10-day public comment period on the Draft Plan was wholly inadequate, particularly given the number of cross-references to other materials. We thus ask that any future public comment periods be set for a typical 30-60 day period.
ROE-5	↓	
ROE-6	↑	
ROE-7	↑	Relatedly, we also think it is critical for the community stakeholders and interested expert entities like Portland Audubon to be able to hear directly from the Environmental Compliance Lead throughout the project, for transparency purposes and to avoid misunderstandings about what is taking place at the project site within and around the Park. We also need clear opportunities to communicate with the Environmental Compliance lead when we see violations or other concerns taking place, such as a phone number to call and an email address to use when we need to report violations or other concerns (e.g., trapped or injured wildlife). We specifically request that a pre-setup, baseline meeting occur regarding the current conditions in the Park, with quarterly meetings thereafter, so that we can ensure confidence throughout the community that the wildlife and their habitats are being protected as necessary and as required. We need to be assured that the project is in compliance with the wildlife protection plan and applicable law.

ROE-8 ↑ We also request that the Plan include a list of the wildlife protection laws that the parties believe are applicable or potentially applicable to the project's route through the Park, with which the WWSP, the City, and the Contractor will be responsible for complying, such as the Migratory Bird Treaty Act, 16 U.S.C. §§ 703 *et seq.* and its implementing regulations (which we do see referenced in the Environmental Controls). As one example, it is not abundantly clear from reading the Plan whether the WWSP believes the federal Endangered Species Act and its protection from harm to both the wildlife and their habitats apply to any of the species that live in or otherwise utilize the Park, nor how compliance is being addressed (we only noticed an oblique reference to an incidental take statement, without proper explanation, and if such a statement has already been issued, it would be very helpful for community stakeholders to be able to read it and the related biological opinion in the context of the Park and its surrounding habitats).

ROE-9 ↑ We want to emphasize, however that while the project must meet the applicable regulatory requirements, we are not only concerned about wildlife on a list of threatened or endangered species, and we are not only concerned about migratory birds. We are concerned about all of the wildlife we enjoy seeing in the park, and even though many of them may be common, we very much want them to be protected from harm to the maximum extent possible.

ROE-10 ↑ One critical issue that appears to be missing from the Draft Plan is a specific explanation of how the pipeline is expected to impact Rock Creek itself while construction takes place in and around the creek. The Environmental Controls from Section 01 57 00 (dated November 2020), appearing at the end of the Plan, document include a number of measures for erosion and sediment control, and prevention and containment of hazardous spills, and require unobstructed fish passage, but we do not have a good understanding from reading the Draft Plan whether the creek will be diverted and if so for how long, nor whether the creek may be dewatered for any period of time. The Environmental Controls otherwise only refer to an "in-water work period" without explaining what that means, and refer generically to "best management practices to protect fish and wildlife in wetlands and Rock Creek." Draft Plan at p. 17. We are extremely concerned about the quality and quantity of the water that will run through the park during the project, particularly related to nesting birds, as well as fish and amphibians (including their eggs), and the duration of any detrimental impact on the creek. This information may be in other documents, but we request that it be specifically referenced in the Draft Plan and that the public and environmental experts be given an additional opportunity to submit comments on what best management practices are going to be implemented and what is intended for the creek during construction.

ROE-11 ↑ Relatedly, we have for at least the past two years had successfully nesting Wood Ducks in the portion of the creek that ponds in the middle of Park. While the Draft Plan references measures for birds, we are concerned that the language appears to be mainly focused on passerines, and thus request that the Draft Plan take into account measures and adjustment to project timing to ensure that ducks and their nesting periods are accounted for, including but not limited to ensuring an adequate supply of good quality water. The in-water work period identified in Section 3.10(A)(1)(c) of the Environmental Controls specifies that in-water work—whatever that actually means for the creek—will take place between July 15 and September 30,

ROE-11 (contd.) which we believe is during the time period that the Wood Ducks in the Park have raised and stay with their young. We recollect seeing juvenile Wood Ducks with the female in the pond during mid-summer, possibly from a second brood, and they are present in the pond into October. We ask that WWSP and the City confer with Portland Audubon on this issue, if they have not already done so.

ROE-12 We also did not see any specific discussion about rabbits in the Draft Plan. We have observed a colony of rabbits just to the North of the small bridge that is in the direct path of the proposed open trenches and use of heavy equipment. We strongly urge WWSP, the City, and the Environmental Compliance Lead address the steps necessary to humanely remove and relocate the rabbits in that area.

ROE-13 Finally, we voice our support for the involvement of and comments being submitted on the Draft Plan of Portland Audubon, Urban Greenspaces Institute, the Center for Biological Diversity, and Metro.

Specific Comments

Section 2.1 Objectives, Measures, and Plans for Implementation

Objective 3: Avoid and Minimize Impacts to Nesting Birds.

ROE-14 For Measure 1 at p. 14, we support the use of project scheduling to avoid vegetation removal during the portion of the bird nesting season between March 1 through August 30, though believe that deterrence to nesting and bird nest removal should only be used as necessary and not as the primary basis for protecting nesting birds in the Park during construction. For any grasses and other vegetation that need to be cut to prevent nesting within the construction area, we recommend that they be cut early and frequently during the project. However, we defer to Portland Audubon and will support their recommendations for how best to mitigate harm to nesting birds, and we ask that their recommendations be specifically incorporated into the plan and the Environmental Controls.

ROE-15 Related to these issues, we believe there is an error in the Environmental Controls at Section 3.10(B) pertaining to migratory birds. Subsection 4 states that the contractor "shall perform allbrush [sic] clearing and tree removal between March 1 and September 1," which is contrary to what the Draft Plan provides and to Subsection 5, which states, "Avoid disturbing migratory bird nesting habitat (shrubs, trees, and structures) from March 1 to September 1 of each year." This error should be corrected.

ROE-16 Additionally, several bird species that utilize the Park nest outside of this identified time period, such as Anna's Hummingbirds, which nest as early as mid-December, and Great Horned Owls, which nest in late winter. We defer to Portland Audubon on how best to address these issues.

- ROE-17 ↑ Also relatedly, we see that Section 3.10(C) pertains to who removes wildlife from the Park—all “non-game wildlife and aquatic life.” We think this provision needs to be clarified, as it is ambiguous and could be read to require removal of all such animals throughout the Park. The paragraph should be revised to reflect that when an official determination has been made through all of the appropriate procedures that wildlife have to be removed for their protection from the construction project, such removal will be carried out by the Owner’s or the Oregon Department of Wildlife biologists, which is how we understand that paragraph’s original intent. We would also like for the Environmental Compliance Lead (or another independent wildlife biologist) to be present or otherwise involved any such removal and to report on such activities to the community stakeholders (see comment above pertaining to regular updates from the Environmental Compliance Lead). ↓
- ROE-18 ↑ Objective 4: Minimize Obstacles to Wildlife Passage Along Rock Creek Corridor. For Measure 2 at pp. 15-16, we are pleased that the WWSP and the City intend to require installation of fencing to deter wildlife from ending up on Cornelius Pass Road. Since the inception of the project we have been concerned not only about wildlife being hit by cars on the road as they try to cross over, but also the potential for significant property damage and loss of human life. We stress that fencing to direct deer and other wildlife through an available corridor is of particular importance. ↓
- ROE-19 ↑ While the Draft Plan is specific to the Orencia Woods Nature Park, we have a similar concern about wildlife on the road just to the south of the Park. Our home backs up to Beaverton Creek, and we have directly observed deer, coyote, and raccoons use the creek as a corridor to cross between the east and west side of Cornelius Pass Road, and countless other animals certainly use it as well. If the pipeline route will also impact the wildlife’s use of Beaverton Creek as a wildlife corridor, as we expect, consideration must be given to fencing the related area to the south of the Park to keep animals off of the road there and people in their cars safe. This should actually be a consideration and mitigation activity for any wildlife corridors that cross the pipeline route—wildlife must have options for continuing to move about free from harm. ↓
- ROE-20 ↑ Additionally, we are concerned about wildlife use of the open field that is noted on the Plan in Figure 1 (p. 2). We are aware that an abundance of wildlife frequently travel into and through that open area, which is currently being designated as a major staging area for the pipeline-related equipment. Impacts to wildlife and mitigation steps need to be developed in coordination with the expert environmental entities and regulatory bodies, and then accounted for and included in the Plan for that area. ↓
- ROE-21 ↑ Objective 5: Minimize Entrapment Hazards of Open Trenches and Shaft For Measure 2 on p. 16, we recommend that the contractor be required to install crossing plates at the end of each work day, whenever possible, to help prevent deer, other wildlife, and people from falling into the trenches should they jump or climb over the required fencing. Leaving open trenches, even though fenced, can be an “attractive nuisance” and could result in

ROE-21
(contd.)

potential legal liability should a person be injured. This additional safety measure would help both people and wildlife.

Objective 10: Restore Disturbed Habitat Post-Construction

ROE-22

For Measure 1 at p. 19, we appreciate that the Draft Plan explains that the restoration of the Rock Creek aquatic and other habitat will be required to meet permit conditions, though we do not know what those conditions are and are unable to evaluate them and comment on them at this time. This also appears under Section 3 on page 24. We ask that the next version of the Draft Plan be updated to provide additional detail for the community's knowledge and future input. Restoration of floodplains and streambeds is critical, but it is the details about the quality and structure of such restoration work that matters. We expect that such work will also be taken consistent with input from regulatory agencies, entities with particular expertise like Portland Audubon, and community stakeholders, with Metro's approval of the restoration plan.

ROE-23

Relatedly, we see that the Environmental Controls at Section 3.09(D) refer to the contractor being required to reduce adverse environmental impacts to a "level that is acceptable to the Owner and regulatory agencies," which we think is a rather ambiguous standard. We expect there will be input from the community stakeholders and those with particular expertise like Portland Audubon, and that their recommendations will be integrated into protection and restoration of the water resources in the Park. The contractor's plan to control water pollution during construction of the work should also be made publically available for input. In Section 3.09(D)(5), not only should that section reference statutes related to prevention or abatement of water pollution, but also any applicable law pertaining to the protection of aquatic species and other wildlife that rely on water quality and availability. We recognize that such issues are addressed primarily in Section 3.10 of the Environmental Controls, but we believe there should be a clear link between protecting water and protecting wildlife.

Section 2.2 Plan for Monitoring Construction and Adaptively Managing Measures for Wildlife and Habitat Protection.

ROE-24

We support the Draft Plan's references to an adaptive management process and giving the independent Environmental Compliance Lead the primary responsibility for monitoring the Contractor's compliance, though we continue to believe that having an independent wildlife biologist for the portion of the project impacting the Park would be beneficial. The contractor must be held accountable, by integrating wildlife protection and habitat restoration measures directly into the contractor's contracts, and there must be a meaningful and timely process in place to ensure that the contractor is held to the standards and requirements, as well as mandated to make changes when the Environmental Compliance Lead deems necessary for wildlife and compliance with applicable law. We thus strongly support the language in the Draft Plan noting the Environmental Compliance Lead's "authority to stop construction activity when an immediate threat to wildlife or wildlife habitat is perceived to exist." Draft Plan at p. 23. While we do understand that changes to the Contractor's scope or budget will require a more formal

ROE-25

ROE-26

- ROE-26 (contd.) process to implement, it is not clear from the Draft Plan how those decisions will be made, such as on what grounds, nor the timing for doing so:
- ROE-27
- As one example, monetary costs to the construction project should not be the controlling factor used to justify more significant costs to wildlife, permanent harm to the wildlife in the Park and their habitat, and the public's enjoyment of that wildlife and the Park. These factors are just as important, and in most cases more important, than monetary cost. While we do not expect a gold-plated solution, we are very familiar with how wildlife loses in these situations, based on what would be rather insignificant cost increases to large-budget projects like this one (which we suspect is part of the reason the pipeline is being diverted through the Park in the first place).
- ROE-28
- We also urge the WWSP to include language in the Draft Plan identifying a specific amount of reasonable time for the formal review process to take place (such as "as promptly as possible but in no case longer than X days," as opposed to stating only that such action will be "prompt"), so that the community can be assured that stalls in that process will not be a cause of a negative impact to wildlife or habitat.
- Section 3 Related Measures During and After Construction Closeout.
- ROE-29
- Related to our comments above pertaining to restoration of aquatic habitat, we support the language in the Draft Plan requiring at pages 24-25 that plantings be replaced after the construction and that aquatic habitat will be "restored to conditions that are equivalent to or better than preconstruction conditions." Even so, we do not see any discussion in the Plan about what trees will be removed from what segment of the project's route through the Park. We understand the plan was initially to remove some large, mature trees along the Cornelius Pass roadway, and that may thankfully have changed, so we would like to better understand whether mature trees will be removed and if so, the requirements for their replacement. When the removed trees and vegetation are replaced after construction, we would like to see some larger-diameter trees planted, if feasible to their growth and survival, rather than only saplings, as they offer better habitat and protection for wildlife.
- ROE-30
- With respect to damage that occurs during the project (see Section 3.09(B)(1) of the Environmental Controls as one example), and after completion of the project, the contractor should also be required to replant using native vegetation that supports wildlife in terms of both food and habitat (not like the lovely but not-useful-to-wildlife plantings at Fern Hill, for example). We also defer to Portland Audubon, Urban Greenspaces Institute, and Metro for ensuring the appropriate plantings of type and size.

Conclusion

We again voice our appreciation for our ability to provide our input into the Draft Wildlife Protection Plan and look forward to continuing to work together with the WWSP and

the City of Hillsboro as this project progresses in our neighborhood and through our much-beloved Park.

Sincerely,

/s/ Starla K. Roels
Starla K. Roels
Hillsboro, OR

/s/ Rob Roels
Rob Roels
Hillsboro, OR

Response to Comments from Starla Roels and Rob Roels

ROE-1: The comment is noted.

ROE-2: The comment is noted.

ROE-3: In response to this input, please see www.ourreliablewater.org/orengo-woods-nature-park/ for links to various materials referenced in the Plan. See also CCR-6 in Section 2.6 of this document.

ROE-4: In response to this input, please see www.ourreliablewater.org/orengo-woods-nature-park/ for links to various materials referenced in the Plan. See also CCR-6 in Section 2.6 of this document.

ROE-5: The commenter requests a page within ourreliablewater.org be created dedicated to providing information specific to OWNP. In response to this input, please see www.ourreliablewater.org/orengo-woods-nature-park/. The Plan is revised to reference this new page.

ROE-6: The commenter expressed that public review of 10 days was insufficient. The review period was set at stakeholder group Protect Orenco Woods Nature Park's request to have two weeks for review of the Draft Plan. In response, WWSP posted the Draft Plan for public review on January 20, 2021 and notified the public (see Section 1.1 of this document). WWSP did not receive requests for additional public review time and closed the public review period 14 days later on February 2, 2021. WWSP notes that a voluntary plan of this nature does not have a mandated review period.

The commenter requests that "any future public comment periods" be set for 30 to 60 days. WWSP acknowledges this request and will consider it when making future documents available for public comment.

Revisions to the Plan are not required in response to this comment.

ROE-7: See CCR-4 in Section 2.4 of this document.

ROE-8: The commenter requests a list of wildlife protection laws or regulations applicable to constructing the pipeline within OOWNP. The commenter cites the Migratory Bird Treaty Act and Endangered Species Act as examples and asks how compliance with the latter is being addressed.

The Draft Plan is not intended to detail the applicable laws and offers specific references where applicable (such as the examples cited by the commenter). Section 1 of the Plan provides the following overview of agencies who have regulatory authority over the project and the areas they regulate:

Resource impacts in OOWNP require approvals from various agencies, some of which WWSP has already received. Agencies and the resources over which they have regulatory authority in OOWNP include U.S. Army Corps of Engineers (wetlands and waterways), U.S. Fish and Wildlife Service (non-anadromous fish and wildlife and their habitats), National Marine Fisheries Service (anadromous fish species and their habitat), Oregon Department of Environmental Quality (water quality), Oregon Department of State Lands (wetlands and waterways), Oregon Department of Fish and Wildlife (ODFW) (native fish and wildlife and their habitats), Clean Water Services (vegetated corridors), and Hillsboro (Significant Natural Resource Overlay and Regulatory Floodplain Overlay zones). As property owners, Hillsboro and Metro have additional authority over work within OOWNP. WWSP has incorporated the comments, suggestions, and requirements of these agencies into the design drawings and construction specifications for the Cornelius Pass Road Pipeline, or PLW_2.0; many of these are reflected in Section 2. While many measures to protect wildlife were previously identified and incorporated into the WWSP design and construction considerations, stakeholder concern for the species and habitats in OOWNP has driven changes in the construction considerations for OOWNP (as described in Section 2) and the development of this Plan.

Because the Plan is not required by nor intended to fulfill regulatory requirements or demonstrate compliance with these requirements, the specific information requested by the commenter is not provided in the Plan itself. However, in response to the commenter, some additional detail is provided here.

WWSP interprets this comment, based on the examples offered, as a request to list the laws and regulations that are most directly applicable to wildlife protection in OOWNP during and after construction; these are summarized below.

- **Federal:** USACE is the Federal nexus for the WWSS. USACE issued a permit for the entire WWSS under the Clean Water Act, Section 404, in 2018 (NWP-2015-0041). In consultation and/or coordination with other agencies, USACE authorized project construction under applicable Federal laws and regulations, including but not limited to the following:

- Clean Water Act
- Migratory Bird Treaty Act
- Endangered Species Act
- Bald and Golden Eagle Protection Act
- Fish and Wildlife Coordination Act

Under the Endangered Species Act, Section 7, USFWS and NMFS reviewed the potential for the WWSS to impact fish and wildlife and their habitats. NMFS issued a Biological Opinion and Incidental Take Statement for the WWSS in 2018.

The commenter requests that the Biological Opinion and Incidental Take Statement be made available to the community. In response, WWSP has made these and other documents relevant to the Plan available electronically; see CCR-6 in Section 2.6 of this document.

- **State:** Oregon Department of State Lands (DSL) issued a Removal/Fill Permit for the WWSS in 2018. As part of its review of the proposed work, DSL sought input from Oregon Department of Fish and Wildlife. The Removal/Fill Permit authorized project construction under applicable State laws and regulations, including but not limited to the following:
 - Endangered Species Act
 - Oregon Department of Fish and Wildlife Habitat Mitigation Policy
- **Local:** Under the Hillsboro Community Development Code, Section 12.27.200 Significant Natural Resource Overlay Zones, water line construction is largely exempt from Significant Natural Resource Permits. However, the compensatory mitigation requirements in Section 12.27.250 will still apply. In 2018, Clean Water Services issued a Service Provider Letter for all of the WWSS. The Service Provider Letter authorized project construction consistent with the Clean Water Services Design and Construction Standards.

The permits referenced above will be made available for viewing online at www.ourreliablewater.org/orengo-woods-nature-park/. See also CCR-6 in Section 2.6 of this document.

ROE-9: The commenter expresses concern for wildlife species beyond those “on a list of threatened or endangered species,” and beyond “migratory birds.” See Section 1 of the Plan for more information about the wildlife species considered in designing PLW_2.0 and in developing the measures presented in Section 2.1 of the Plan. The species highlighted there go far beyond migratory birds and threatened or endangered species.

The Final Plan is revised to clarify that the wildlife species highlighted in Section 1 of the Plan do not represent all species that may be present in OWNP, and that consideration of the highlighted species is anticipated to provide benefit to other native species that may also be present.

ROE-10: The commenter requests additional information regarding impacts to Rock Creek and construction methods in and around Rock Creek. Specifically, the commenter requests that the documents describing the work and disclosing potential impacts of this work be specifically referenced in the Plan and that “...the public and environmental experts be given an additional opportunity to submit comments...” on this work.

The Plan is not intended to be a comprehensive description of project and its impacts, many of which have already been evaluated by permitting and resource agencies. Instead, as the commenter suggests, this information is provided in other materials which were subject to public review periods that allowed scrutiny by experts. A few examples that are particularly relevant to this comment include the Joint Permit Application to USACE (public notice period October 14, 2017, through November 13, 2017) and DSL (public notice period May 9, 2017 through June 8, 2017), the NMFS Biological Opinion, and the Oregon Department of Environmental Quality (DEQ) Water Quality Certification. WWSP did not determine the public review periods or methods for these permits and certifications, which are dictated by state and federal law. In addition to the notifications to the public made by the relevant regulatory agencies, WWSP has made various documents available during the public comment periods on ourreliablewater.org. The documents have been issued in final form by their respective agencies and their public review periods have passed. These documents will be made available for viewing to the public as described in CCR-6 in Section 2.6 of this document.

Lastly, the commenter mentions the in-water work period referenced in the draft Specification Section 01 57 00 Environmental Controls and appears to request further information about what that means. The in-water work period is the period of time during which the WWSP is authorized to perform work below the ordinary high water elevation of Rock Creek. This period of time, determined by ODFW on a site-specific basis, is the period of time when work in a waterway will least impact fish, wildlife, and aquatic habitats (ODFW 2008); ODFW’s in-water work windows for most Oregon waterways including Rock Creek will be made available for viewing online at

https://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_InWater_Work2008.pdf.

WWSP is required, as a condition of a permit issued by DSL for work in Rock Creek (permit number 60102-RF), to conduct all work below the ordinary high water elevation of Rock Creek between July 15 and September 15. The permit will be made available for viewing online at www.ourreliablewater.org/orengo-woods-nature-park.

In light of the explanations above, revisions to the Plan are not required in response to this comment.

ROE-11: The commenter raises concerns about work in Rock Creek during the in-water work period impacting wood ducks downstream of the work area. (The commenter also appears to request further information about the in-water work period; see response to comment ROE-10, above, for this information.) As described in response to comment ROE-10, above, the in-water work period is established by ODFW to minimize impacts to fish, wildlife, and aquatic habitats (ODFW 2008); ODFW's in-water work windows for most Oregon waterways including Rock Creek will be made available for viewing online at https://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_InWater_Work2008.pdf.

Additional measures are required through permits issued by DSL (permit number 60102-RF) and USACE (permit number NWP-2015-0041) to maintain the flow and quality of water leaving the work area and moving downstream. These permits will be made available for viewing online at www.ourreliablewater.org/orengo-woods-nature-park. Many of these requirements are incorporated in the draft Specification Section 01 57 00 Environmental Controls, and all will be monitored by the Environmental Compliance Lead during construction.

WWSP consulted with Portland Audubon and updated protections in the Plan for all birds as described in CCR-2 in Section 2.2 of this document.

ROE-12: See response to comment PRO-17 in Section 3.12 of this document.

ROE-13: The comment is noted.

ROE-14: See CCR-2 in Section 2.2 of this document.

ROE-15: See response to comment PRO-9 in Section 3.12 of this document.

ROE-16: See CCR-2 in Section 2.2 of this document.

ROE-17: The commenter requests that the language in draft Specification Section 01 57 00, Environmental Controls, Subsection 3.10(C), be revised to clarify the intent to perform wildlife relocation only following an "official determination" and using "appropriate procedures," and to clarify the physical extent of wildlife relocation under this paragraph to avoid an

interpretation that it requires removal of all wildlife in OWN. The referenced specification language will be revised to clarify that removal of wildlife will occur only when and if removal is deemed necessary, by the Environmental Compliance Lead, to protect wildlife. See also CCR-5 in Section 2.5 of this document.

The commenter also requests that the Environmental Compliance Lead “be present or otherwise involved in” wildlife relocation from wetlands and waterways. As described in Section 2 of the Draft Plan, the Environmental Compliance Lead is an independent biologist with “...primary responsibility for monitoring compliance with the WWSP’s goals and commitments related to environmental resources and with regulatory requirements during construction. The Environmental Compliance Lead is supported by a broader team of specialists including wildlife and fisheries biologists, archaeologists, arborists, hydrologists, hydrogeologists, and others, also through the [David Evans and Associates, Inc.] DEA contract.” In this role, the Environmental Compliance Lead will necessarily be involved in coordinating, if not directly performing, any wildlife relocation activity in wetlands and waterways. As described under Objective 7, Recover Wildlife from Work Area, Trench, and Shaft, if Applicable, in Section 2.1 of the Draft Plan, some species can be removed directly by the Contractor, in coordination with the biologist. The Plan is revised to clarify that the biologist will coordinate with the Environmental Compliance Lead (if they are not the same individual).

ROE-18: The comment is noted.

ROE-19: See CCR-1 in Section 2.1 of this document.

ROE-20: See CCR-1 in Section 2.1 of this document.

ROE-21: See response to comment PRO-10 in Section 3.12 of this document.

ROE-22: The commenter requests that Objective 10, Measure 1, be revised to include additional detail regarding stream restoration. Detailed designs for stream restoration is currently under design, however additional detail regarding conceptual design and performance standards is described in Section 3 of the Plan, which states:

To date, PLW_2.0 has been extensively reviewed and approved by various agencies with jurisdiction over natural resources. Some of these agencies imposed post-construction site restoration requirements relevant to their authority. WWSP developed a conceptual site restoration plan early on to accommodate anticipated site restoration requirements from various entities in a manner compatible with the pipeline infrastructure. The *Conceptual Post-Construction Site Restoration Plan* (DEA 2017b) provides guidance for designing site revegetation in wetlands and riparian areas after construction, including at Rock Creek. Final project design must be consistent with the *Conceptual Post-Construction Site Restoration Plan* under permits issued by U.S. Army Corps of Engineers, Oregon Department of State Lands, and Clean Water Services. Additionally,

Hillsboro requires specific site restoration in the park as part of the Significant Natural Resource Overlay zones associated with Rock Creek and Beaverton Creek. Significant Natural Resource Overlay site restoration requirements are currently under development.

Detailed designs for Rock Creek and Beaverton Creek restoration are currently under design. Consistent with permit requirements, aquatic habitats, including stream channels and streambanks, will be restored to conditions that are equivalent to or better than preconstruction conditions. The floodplains and streambanks impacted during construction will be reshaped to match upstream and downstream conditions. Design criteria will follow stream restoration guidelines and focus on bio-engineered stabilization techniques such as woody plantings and live stakes, brush layering or brush mattresses, quickly establishing herbaceous cover, erosion control fabric, and coir lift. The Washington Department of Fish and Wildlife *Integrated Streambank Protection Guidelines* (Cramer 2003) and *Stream Habitat Restoration Guidelines* (Cramer 2012) and *Natural Resources Conservation Service Stream Corridor Restoration Guidelines* (Federal Interagency Stream Restoration Working Group 1998) are examples that will be considered during design.

Under restoration requirements imposed to date, WWSP will monitor and maintain restored conditions for a minimum of 5 years after construction in OOWNP, and a minimum of 3 years after construction at Beaverton Creek. WWSP is obligated to monitor and report conditions to the regulatory agencies and, if conditions do not meet the applicable performance standard of each agency, WWSP must correct those conditions (such as replanting vegetation if the number of plants surviving do not meet the standards). The agencies have the ability to extend the period of monitoring and maintenance, if necessary, to achieve the performance standards. Additionally, Hillsboro and Metro as co-owners of OOWNP are expected to impose their own requirements for site restoration, monitoring, and maintenance as part of the terms for granting WWSP an easement through OOWNP. This Plan does not currently reflect consideration of requirements which may be imposed in the future.

The commenter also expresses that they do not have access to the permit conditions that stream restoration will be required to meet. In response to this input, various applicable permits will be made available for viewing online at www.ourreliablewater.org/orengo-woods-nature-park/. See also CCR-6 in Section 2.6 of this document.

Restoration design will go through appropriate review and approval under all applicable regulations.

ROE-23: The commenter requests that the Contractor's plan to control water pollution during construction be made available publicly for input. DEQ will review WWSP's application for a

1200-C permit, which regulates runoff to surface waters from construction activities. The 1200-C permit includes a public review process managed by DEQ.

Revisions to the Plan are not required in response to this comment.

ROE-24: See response to comment PRO-13 in Section 3.12 of this document.

ROE-25: The commenter states that wildlife protection measures should be included in the contract documents. As described in Section 2.1 of the Draft Plan, the Final Plan will be included as a contract document. The commenter also requests a “timely process” to hold the Contractor to the “standards and requirements;” the Contractor will be held to contractual obligations, including Plan implementation, through contract documents. The commenter further asserts that the Contractor be mandated to make changes deemed necessary for wildlife and compliance with applicable law. WWSP has a formal change management process in place (see Section 2.2.3 of the Draft Plan and CCR-3 in Section 2.3 of this document) and has integrated compliance with applicable laws throughout the contract documents.

Revisions to the Plan are not required in response to this comment.

ROE-26: See CCR-3 in Section 2.3 of this document.

ROE-27: See CCR-3 in Section 2.3 of this document.

ROE-28: See CCR-3 in Section 2.3 of this document.

ROE-29: The commenter requests clarification about tree removal in OWNWP. Preserving mature trees (defined by Hillsboro as deciduous trees 8 inches or greater in diameter measured 4.5 feet above native grade, or coniferous trees 30 feet or taller in height) has always been a priority for pipeline design in OWNWP, and accordingly no mature trees will be removed in OWNWP as a part of pipeline construction. Two small landscaping trees (smaller than those defined as mature by Hillsboro), located in the parking lot in the southeast corner of OWNWP, are identified for removal. WWSP and Hillsboro are currently evaluating whether replacement plantings will be required for removing these trees.

The commenter also requests that site restoration include planting large-diameter trees. As described in Section 2.1 and Section 3 of the Draft Plan, site restoration design is currently in progress. The final design must be consistent with permits issued by USACE, DSL, and CWS. Additionally, Hillsboro requires specific site restoration in the park as part of the Significant Natural Resource Overlay zone associated with Rock Creek. WWSP will coordinate with Hillsboro and Metro staff in designing site restoration, subject to the terms of an Intergovernmental Agreement between WWSS, Hillsboro, and Metro. In considering trees as part of restoration plantings, WWSP will consider habitat benefits, as suggested by the commenter.

Revisions to the Plan are not required in response to this comment.

ROE-30: As described in Section 2.1 and Section 3 of the Draft Plan, site restoration design is currently in progress. The final design must be consistent with permits issued by USACE, DSL, and CWS. Additionally, Hillsboro requires specific site restoration in the park as part of the Significant Natural Resource Overlay zone associated with Rock Creek. The requirements from USACE, DSL, CWS, and Hillsboro all require use of native plantings. WWSP will coordinate with Hillsboro and Metro staff in designing site restoration, subject to the terms of an Intergovernmental Agreement between WWSS, Hillsboro, and Metro.

Revisions to the Plan are not required in response to this comment.

3.10 Stephanie Schoening

From:

Stephanie Schoening

To:

communityreview@journalablewater.org

Subject:

Comment

Date:

Friday, January 29, 2021 1:01:58 AM

To whom it may concern,

SSC-1

↑

Orenco Woods Nature Park wildlife corridor continues north under the light rail overpass. As wildlife travels north along the Rock Creek wildlife corridor, they travel west into the woodlands and into the open field noted on Figure 1/Page 2 of the Plan. We've seen wildlife travel in these areas during all times of the day and early evening hours. Wildlife entering at the northeast portion of the area beds down in the tall grasses and is seen traveling south along the east side of the field. This open field is designated as a major staging area for WWSP with pipeline construction on the west side of the field. Wildlife is in extreme danger if they get into the staging area and in the way of construction traffic entering the field from Cherry Lane. We stress that it is crucial that fencing be installed as a deterrence along the entire east side of the open field ending at the entrance of the fire station driveway and extending slightly east to securely enclose the area. Fencing on the east side of the open field and north should be 8ft high at a minimum to prevent deer from jumping into the area. Due to the heavy construction traffic on Cherry Lane, WWSP/City of Hillsboro needs to ensure that wildlife is not harmed. Since work will take place in the staging area during evening hours, it becomes critical to protect wildlife from traveling into the area and being hit by vehicles.

↓

Response to Comment from Stephanie Schoening

SSC-1: See CCR-1 in Section 2.1 of this document.

3.11 William Spainhour

From:

[REDACTED]

To:

communityreview@ourreliablewater.org

Subject:

Orenco Nature Park Wildlife Protection Plan

Date:

Sunday, January 31, 2021 2:27:22 PM

Response to WWS Wildlife Protection Plan

WSP-1

↑

I live in the Stonewater neighborhood of Hillsboro, just north of the Orenco Nature Park and west of the field beside the Cherry Lane Fire Station. I'm glad to be made aware of your draft plan for wildlife protection during the pipeline work taking place, not only in the nature park, but in the proposed staging area north of the park, and the berm slightly northwest of that area.

↓

WSP-2

↑

Why am I mentioning more than the nature park in relation to wildlife protection? Because as a longtime resident I'm fully aware that wildlife living in the park also use these other open spaces near my house. The largest mammals we see on a regular basis, in the fire station field and our HOA common area, are deer. The smallest creatures seen daily are various species of birds, nesting in the blackberry hedge separating Stonewater's property from the city-owned field adjacent to the fire station. I know you are currently focusing on what will happen inside the park. Yet we all know wildlife don't make distinctions about whose land they are traveling through, grazing upon, or nesting in.

↓

WSP-3

↑

I would like to see specific provisions added to this draft plan for (1) keeping neighbors informed about progress or problems. (2) Naming specific personnel who will be monitoring construction, with appropriate contact information in case neighbors observe something that needs attention.

↓

WSP-4

↑

Lastly, I find Section 01 57 00 (Environmental Controls) labeled as a draft for PLW 2.0 and attached at the end of the draft plan. This entire section could use some clarification. Is this a contract specification or what? I find it odd that this material shows up after all the time we've spent asking WWS for specifics about just the issues this draft covers. And when it refers to "owners" having to do this & that, who exactly are these owners?

↓

WSP-3

↑

William Spainhour
[REDACTED]
Stonewater, Hillsboro

↓

Response to Comments from William Spainhour

WSP-1: See CCR-1 in Section 2.1 of this document.

WSP-2: See CCR-4 in Section 2.4 of this document.

WSP-3: See CCR-3 in Section 2.3 of this document.

WSP-4: See CCR-3 in Section 2.3 of this document.

3.12 Protect Orenco Woods Nature Park

February 1, 2021

VIA ELECTRONIC MAIL
communityreview@ourreliablewater.org
Willamette Water Supply Program
City of Hillsboro

COMMENTS ON WWSP DRAFT WILDLIFE PROTECTION PLAN
SUBMITTED BY PROTECT ORENCO WOODS NATURE PARK ADVOCACY GROUP

To Whom It Does Concern:

We appreciate the opportunity to submit the following comments on the Willamette Water Supply Program (WWSP) DRAFT Wildlife Protection Plan and Adaptive Management Plan (the Plan) for Orenco Woods Nature Park (the Park) dated January 20, 2021.

PRO-1 We are a small ad-hoc advocacy group (Group) comprised of residents of the City of Hillsboro. The Park is incredibly important to us and to many people in the communities that surround it. We actively visit the Park throughout the week enjoying its abundance of wildlife (many deer, coyotes, fox, rabbits, Western gray squirrels, raccoons and a variety of birds). Its location along Rock Creek, a natural wildlife corridor connecting undeveloped lands to the North and South of the City, makes it all the more valuable.

We are extremely concerned about the implications for the wildlife and the recovery of any habitat that is destroyed or significantly damaged during the process of running the pipeline through the Park.

PRO-2 We appreciate the role the City of Hillsboro is taking as a landowner and a co-owner of the Park toward fulfilling its responsibility for protecting all wildlife and their habitat on behalf of the Hillsboro community. We do expect that responsibility to be fulfilled and will be paying attention and holding responsible parties accountable for full compliance to the Plan and its adaptive management strategies.

PRO-3 After careful review of the Plan, we do think improvements can and should be made. We do believe the Plan takes important steps to help minimize the detrimental impact that the pipeline construction will certainly have on the Park's wildlife and their habitat.

PRO-4 The involvement of and comments being submitted on the Plan of Portland Audubon, Metro, Center for Biological Diversity, and Urban Greenspaces are strongly supported by our Group.

Comments on Draft Wildlife Protection Plan
Protect Orenco Woods Nature Park Advocacy Group
February 1, 2021
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SPECIFIC COMMENTS

1. Wildlife Biologist Status Updates:

PRO-5 We think it is critical for the community stakeholders and interested expert entities like the Center for Biological Diversity to hear directly from the Environmental Compliance Lead throughout the project, for transparency purposes and to avoid misunderstandings about what is taking place at the project site within and around the Park.

Hearing from the Environmental Compliance Lead can be arranged via videoconference and be held on a quarterly basis, every three months. The Environmental Compliance Lead can provide updates to partners, conservation entities, and the Hillsboro community. It is important to do a pre-setup baseline meeting regarding current environmental conditions and then move forward to quarterly check-ins. Hearing directly from the Environmental Compliance Lead gives groups confidence that the community and wildlife are being served.

2. Reporting of Contractor Violations/Entrapment of Wildlife:

PRO-6 We need clear opportunities to communicate with the DEA Environmental Compliance Lead when we see contractor violations or other concerns taking place, e.g., entrapment of wildlife. Please provide a reporting method to the public (contact/telephone number/email address).

3. Page 14/Objective 4, Measure 1, Plan for Implementation – Migratory birds:

PRO-7 We support the use of project scheduling to avoid vegetation removal during the portion of the bird nesting season between March 1 through August 30, though believe that deterrence to nesting and bird nest removal should only be used as necessary and not as the primary basis for protecting nesting birds in the Park during construction. Due to nesting season (March through August), we recommend that any grasses and other vegetation that need to be cut to prevent nesting within the construction area be cut early and often during the project. We defer to Portland Audubon and will support their recommendations for how best to mitigate harm to nesting birds and ask that their recommendations be specifically incorporated into the Plan and the Environmental Controls. Also, Anna's Hummingbirds can be early nesters and may begin nesting as early as December (Portland Audubon) and Great Horned Owls in late winter. We defer to Portland Audubon on how best to address these issues.

PRO-8

4. Error in Environmental Controls:

PRO-9 See, Section 3.10(b) in the Environmental Controls pertaining to migratory birds. Subsection 4 references allbrush (sic) clearing and tree removal between March 1 and September 1 which is contrary to the Draft Plan, Subsection 5, which states avoid disturbing migratory bird nesting habitat (shrub, trees, structures) from March to September. Please correct.

Comments on Draft Wildlife Protection Plan
Protect Orenco Woods Nature Park Advocacy Group
February 1, 2021
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5. Page 16/Objective 5, Measure 2, Minimize Entrapment Hazards of Open Trenches and Shaft:

PRO-10 ↑ We strongly recommend that the contractor be required to install crossing plates at the end of each work day to prevent deer, other wildlife, and people from falling into trenches should they jump or climb over the required fencing. We note there will be no lighting in the park at night. Leaving open trenches, even though fenced, can be an “attractive nuisance” and could result in potential legal liability should a person become injured. This additional safety measure would help both people and wildlife. If deer jump the fence, crossing plates may keep them safe and allow them to possibly exit. There may be areas where this may not be possible, but it is crucial to install crossing plates, where possible, at the end of each work day to prevent harm to wildlife and people.
↓

6. Fencing Required to Prevent Harm to Wildlife:

PRO-11 ↑ We are concerned about wildlife use of the Open Field that is noted on Figure 1, Page 2 of the Draft Plan. There is an abundance of wildlife that travel into and through that Open Field. Wildlife is seen traveling in the Open Field during all times of the day and evening hours. Wildlife entering from Rock Creek at the northeast segment of the field beds down in the tall grasses and travels south along the east side of the field and back down into the wildlife corridor.

This Open Field is designated by WWSP/City of Hillsboro as a major staging area for 12 months in addition to pipeline construction on the west side of the field. There will be heavy construction traffic into the staging area from Cherry Lane occurring from early morning up to 9pm. Since work will take place in the staging area during evening hours, it becomes critical to protect wildlife from traveling into the area and being hit by vehicles and possible injury to people.

The staging area, pipeline construction, and heavy construction traffic present extremely hazardous conditions for wildlife.

We recommend that fencing be installed as a deterrence along the entire east side of the Open Field ending at the entrance of the fire station driveway and extending slightly east to securely enclose the area. Fencing should be 8ft high at a minimum to prevent deer and other wildlife from getting into the area. Pipeline construction on the west side of the field will have open trenches. We strongly recommend that the contractor be required to install crossing plates at the end of each day (See, *Comment 3 re Entrapment Hazards of Open Trenches and Shaft*). Leaving open trenches could result in potential legal liability should a person become injured.

↓ We strongly urge WWSP and the City of Hillsboro to coordinate with experts such as Audubon, Center for Biological Diversity, and other entities, to develop wildlife mitigation/protection plans and extend adaptive management strategies for this area and then account for and include in the Final Plan.

Comments on Draft Wildlife Protection Plan
Protect Orenco Woods Nature Park Advocacy Group
February 1, 2021
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	<p>7. <u>Documents Cross-Referenced in Draft Plan and Environmental Controls:</u></p>
PRO-12	<p>↑ There are several documents cross-referenced in the Draft Plan and Environmental Controls that were not available to the public to review as part of this comment process. We request that WWSP provide links to key documents that are being relied on in the Plan and be made readily available for public review, as well as up-to-date information on the steps being required to protect and mitigate wildlife and habitats, and changes that are being considered and addressed, and advance notice of public meetings, and more are key for transparency to the public.</p> <p>↓</p>
	<p>8. <u>Section 2.2 Plan for Monitoring Construction and Adaptively Managing Measures for Wildlife and Habitat Protection:</u></p>
PRO-13	<p>↑ We support the Plan's references to an adaptive management process and giving the independent Environmental Compliance Lead the primary responsibility for monitoring the Contractor's compliance, though we continue to believe that having an independent wildlife biologist for the portion of the project impacting the Park would be beneficial. The contractor must be held accountable, by integrating wildlife protection and habitat restoration measures directly into the contractor's contracts, and there must be a meaningful and timely process in place to ensure that the contractor is held to the standards and requirements, as well as mandated to make changes when the Environmental Compliance Lead deems necessary for wildlife and compliance with applicable law. We thus strongly support the language in the Plan noting the Environmental Compliance Lead's "authority to stop construction activity when an immediate threat to wildlife or wildlife habitat is perceived to exist." Draft Plan at p. 23. While we do understand that changes to the Contractor's scope or budget will require a more formal process to implement, it is not clear from the Plan how those decisions will be made, such as on what grounds, nor the timing for doing so:</p> <p>↓</p>
PRO-14	
PRO-15	<p>↑</p> <ul style="list-style-type: none"> • As one example, monetary costs to the construction project should not be the controlling factor used to justify more significant costs to wildlife, permanent harm to the wildlife in the Park and their habitat, and the public's enjoyment of that wildlife and the Park. These factors are just as important, and in most cases more important, than monetary cost. We are very familiar with how wildlife loses in these situations, based on what would be rather <i>insignificant cost</i> increases to large-budget projects like this one. <p>↓</p>
PRO-16	<p>↑</p> <ul style="list-style-type: none"> • We also urge the WWSP to include language in the Plan identifying a specific amount of reasonable time for the formal review process to take place (such as "as promptly as possible but in no case longer than X days," as opposed to stating only that such action will be "prompt"), so that the community can be assured that stalls in that process will not be a cause of a negative impact to wildlife or habitat. <p>↓</p>
<p>Comments on Draft Wildlife Protection Plan Protect Orenco Woods Nature Park Advocacy Group February 1, 2021 4 of 5</p>	

PRO-17	<p>9. <u>Rabbits:</u></p> <p>We did not notice any specific discussion about rabbits in the Draft Plan. We observe colonies of rabbits in the Old Rail Bed area, Open Field, and in the Park that may be in the direct path of proposed open trenches and use of heavy equipment. We strongly urge WWSP, the City, and the Environmental Compliance Lead address steps necessary to humanely remove and relocate the rabbits in that area.</p>
	<p style="text-align: center;"><u>CONCLUSION</u></p> <p>Our group appreciates the ability to provide input into the Plan and looks forward to working together with the City of Hillsboro and WWSP, as well as Portland Audubon, Urban Greenspaces, Center for Biological Diversity, and Metro as this project progresses through our much-beloved Park.</p> <p>Sincerely,</p> <p>/s/</p> <p>Sheila Christensen Founder/Protect Orenco Woods Nature Park 604 NE 79th Avenue Hillsboro, OR 97124</p>
<p>Comments on Draft Wildlife Protection Plan Protect Orenco Woods Nature Park Advocacy Group February 1, 2021 5 of 5</p>	

Response to Comments from Protect Orenco Woods Nature Park

PRO-1: The comment is noted.

PRO-2: The comment is noted.

February 26, 2021

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Responses to Comments on the Draft Wildlife
 Protection and Adaptive Management Plan for
 Orenco Woods Nature Park

PRO-3: The comment is noted.

PRO-4: The comment is noted.

PRO-5: See CCR-4 in Section 2.4 of this document.

PRO-6: See CCR-4 in Section 2.4 of this document.

PRO-7: See CCR-2 in Section 2.2 of this document.

PRO-8: See CCR-2 in Section 2.2 of this document.

PRO-9: Specification Section 01 57 00 Environmental Controls Subsection 3.10(b)(4) is deleted in response to this comment. The specification contains other, more accurate references to the nesting season and this measure is found to be redundant and unnecessary. Other references are revised to reflect a revision in the nesting season of February 1 through July 31 (see CCR-2 in Section 2.2 of this document).

PRO-10: The commenter advocates for placing "...crossing plates at the end of each work day to prevent deer, other wildlife, and people from falling into trenches." As described in Section 2.1 of the Plan, by minimizing the length of open trench to no more than 150 feet, it is unlikely that deer will attempt to jump the 8-foot chain link fencing surrounding the trenches. This opinion was provided to WWSP by multiple experts consulted independently. Similarly, WWSP was advised that measures to enable deer to exit the trench are likely not necessary given other measures in place.

After being advised that crossing measures are likely unnecessary in light of other measures, WWSP chose to acknowledge that additional measures are available should fencing alone prove to be insufficient, stating "if wildlife do get past the fencing and attempt to cross open trenches, additional measures will be implemented such as using taller fencing or placing plates (non-slip steel plates of a number, width, and spacing subject to approval by the Environmental Compliance Lead) across open trenches to provide crossing areas." WWSP recognizes that requiring additional measures up front, when unlikely to serve a protective purpose, may in fact serve to slow construction down in direct contradiction to Objective 2, Measure 1, which is to "Minimize the amount of time there is active construction in OWN." Nevertheless, Objective 7, "Recover Wildlife from Work Area, Trench, and Shaft, if Applicable," is in place to recover any wildlife should they enter the trench.

The commenter also expresses concern for people to climb the fences, enter the trench, and be unable to exit the trench safely, and proposes crossing plates to allow them to exit. Crossing plates are not anticipated to help people or wildlife exit the trench, but rather would provide a path to cross the trench. Instead, the Contractor is required in Specification Section 31 21 33 Trenching, Backfilling and Compacting for Utilities, Subsection 3.03(E), to maintain safe egress from the trench for people. While this measure is in place to protect workers, it provides equal

egress for trespassers. WWSP also notes that across multiple construction sites to date no trespassers have accessed open trenches or shafts, indicating that the deterrence measures in place (fences, etc.) are generally effective.

No further expert opinion has been provided to contradict the original conclusions or validity of the measures proposed in the Plan. Therefore, the Plan is not revised in response to this comment.

PRO-11: See CCR-1 in Section 2.1 of this document.

PRO-12: See CCR-4 in Section 2.4 and CCR-6 in Section 2.6 of this document.

PRO-13: The commenter states that having an independent biologist monitoring work in OWNPN would be beneficial. This request for an independent biologist is fulfilled as described throughout the Plan. As stated in Section 2 of the Draft Plan:

DEA's contract to the WWSP includes services to implement the adaptive management process described in Section 2.2 and support achieving the objectives described in this section. Under this contract, DEA provides an Environmental Compliance Lead (a biologist or ecologist) with primary responsibility for monitoring compliance with the WWSP's goals and commitments related to environmental resources and with regulatory requirements during construction. The Environmental Compliance Lead is supported by a broader team of specialists including wildlife and fisheries biologists, archaeologists, arborists, hydrologists, hydrogeologists, and others, also through the DEA contract. The DEA contract is separate from the design, construction, and program management contracts to provide independent services directly to the WWSP.

See also the response to comment ROE-25 in Section 3.9 of this document. The Plan is not revised in response to this comment.

PRO-14: See CCR-3 in Section 2.3 of this document.

PRO-15: See CCR-3 in Section 2.3 of this document.

PRO-16: See CCR-3 in Section 2.3 of this document.

PRO-17: The commenter requests consideration of protections for rabbits. In response to this input, Objective 6 of the Plan is revised to include a new Measure 2 to survey for rabbits ahead of construction, and to take steps to reduce or avoid impacts to rabbit colonies within the work area if they are found to be present. The plan for implementing this measure includes deterrence measures or, if deterrence is not effective, humane relocation.

4 References

- Oregon Department of Fish and Wildlife (ODFW). 2008. Oregon Guidelines for timing of In-Water Work to Protect Fish and Wildlife Resources. Available online at: https://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_In-Water_Work2008.pdf. Accessed February 23, 2021.
- Oregon Department of State Lands (DSL). 2019. Permit Number 60102-RF. Issued May 7, 2018.
- Bureau of Environmental Services, City of Portland. 2017. Protecting Nesting Birds: Best Management Practices for Vegetation and Construction Projects. Version 3.0. May 2017. Available online at: <https://www.portlandoregon.gov/bes/index.cfm?a=322164>. Accessed February 16, 2021.
- U.S. Army Corps of Engineers (USACE). 2018. Permit Number NWP-2015-0041. Issued December 7, 2018.
- Willamette Water Supply Program (WWSP). 2021. Draft Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park. January 20, 2021. Available online at: <http://www.ourreliablewater.org/orengo-woods-nature-park/>. Accessed on February 23, 2021.
- WWSP. 2021. Wildlife Protection and Adaptive Management Plan for Orenco Woods Nature Park. February 23, 2021. Will be made available online at: <http://www.ourreliablewater.org/orengo-woods-nature-park/>.