



United States Department of the Interior



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IN REPLY REFER TO:

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MAR 7 2006

Larry E. Reed
Principal, Land Use Planner
JRH Transportation Engineering
4765 Village Plaza Loop, Suite 201
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Dear Mr. Reed:

BLM State Director Elaine Brong has asked me to reply to your February 22, 2006, letter regarding the West Eugene Parkway (WEP). You express the view that BLM has taken a side in opposition to the proposed WEP. Allow me to paraphrase the three questions I glean from your letter.

1. Has BLM ignored its own instructions to avoid undertaking any wetland enhancement within 250 feet along the north side of the railroad?
2. In its environmental studies, has BLM identified wetland enhancements within the corridor as now being important wetland areas?
3. Is BLM looking for a way to avoid a lawsuit and "leave it to FHWA/ODOT to go it alone?"

In addition to the text, your letter contained two map enclosures. The first map, entitled "M03: Wetlands Recommendations", appears to come from the original *West Eugene Wetlands (WEW) Plan* (City of Eugene and Lane County 1992). This map portrays advice for acquisition and management of land within the WEW Special Study Area. The second map, labeled "Amazon Creek Wetland Section 1135 Project," which you attribute to BLM, does not bear a BLM insignia. We think this map was actually prepared by the U.S. Army Corps of Engineers (Corps). We find a similar map, numbered "plate 5", in the *Project Modification Report and Environmental Assessment: Amazon Creek Project, Eugene Oregon, Project Modification for Improvement of the Environment, Section 1135(b) Project* (Corps, 1996).

I do not agree that BLM has taken a side on the WEP. Rather, I believe that we have acted as an active and responsible partner in both management of the WEW and in analysis of the WEP. I will address each of your three questions.

Has BLM ignored its own instructions to avoid undertaking any wetland enhancement within 250 feet along the north side of the railroad?

BLM has not undertaken active wetland enhancement projects within the corridor north of the railroad tracks. When ODOT moved the route of the WEP, BLM and our WEW

partners responded. First, we stopped acquisition of land within the new footprint of the WEP. Second, we designed active restoration projects to stay out of the corridor north of the railroad tracks. The map of the Amazon Creek 1135 Project (your enclosure) illustrates that the WEP partners, including BLM, have recognized the WEP footprint. Nonetheless, despite our observance of the corridor, the quality of the wetlands north of the tracks has improved, due to the cessation of grass farming.

In your letter, you draw a distinction between “higher quality wetlands” on the south side and “lower quality agricultural wetlands” on the north side. The glossary of the WEW Plan defines two terms, agricultural wetlands and jurisdictional wetlands. *Agricultural wetlands* “... were both manipulated and cropped before December 23, 1985, but which continue to exhibit important wetland values... Areas where wetlands soils and hydrology remain, but wetland plants have been removed to allow a crop to be grown are called ‘agricultural wetlands’ or ‘disturbed areas’... If it can be assumed that wetland plants would become re-established if the farming ceased, then the area may be considered a jurisdictional wetland, even though all three factors are not present.” A *jurisdictional wetland* is “... a wetland determined to be subject to requirements of the federal Clean Water Act and Oregon’s fill and removal statute.”

Adoption of the WEW Plan in 1992 resulted in action on the part of BLM and others. In pursuit of the WEW Plan, the City of Eugene and other local interests lobbied Congress for Land and Water Conservation Fund Act (LWCF) money to buy private property to manage to meet Plan goals. Congress provided LWCF authorization and funding, and BLM, acting on behalf of the WEW partnership, bought property in West Eugene. BLM acquired two large parcels (Nielson and Larsen properties) just north of the railroad by 1994. Grass farming ended after property passed into Federal ownership.

Wetland soils and wetland hydrology were present already within the WEP corridor. Plants associated with wetlands have gradually become established in the absence of agriculture in the former grass fields. Some people call this natural process “passive restoration.” As a result, wetland quality has improved over the intervening 12 years, even in the absence of active restoration projects.

In its environmental studies, has BLM identified wetland enhancements within the corridor as now being important wetland areas?

BLM conducts environmental analysis to meet requirements of the National Environmental Policy Act (NEPA) before we begin resource management actions. When we assemble environmental analysis documents, we describe conditions as they exist at the time each document is prepared. As I explained above, wetland conditions have improved north of the railroad tracks since 1994. As the Wetland Recommendations map (your enclosure) shows, the area within the WEP corridor was deemed by the City of Eugene and Lane County to be important for wetland management at least as early as 1992.

In 2005, BLM undertook an Environmental Assessment (EA) covering a ten year schedule of maintenance and restoration activities on all BLM properties within the WEP. We still own and steward the land under the footprint of the WEP. We needed to analyze the area in the WEP corridor as we planned for our property. Problems that develop within the corridor, for example, invasive weed infestations, can affect adjacent land. We described existing conditions and alternative future treatments within the corridor. Nonetheless, in that EA, we state that "...Projects stemming from this EA that are in the footprint of the proposed parkway would not be implemented until the future of the parkway is determined."

Is BLM looking for a way to avoid a lawsuit and "leave it to FHWA/ODOT to go it alone?"

BLM has taken an active role with ODOT and FHWA as they prepare the Final Supplemental Environmental Impact Statement (FSEIS) for the WEP. In 2000, FHWA invited BLM to become a cooperating agency in preparation of the FSEIS; BLM agreed. In 2004, BLM, ODOT, FHWA, and the Corps signed a Memorandum of Understanding – Project Management Plan (MOA-PMP) to guide participation in the process leading to completion of the FSEIS. The MOA-PMP established an Executive Coordination Team (ECT) to resolve any problems that arise during the process. The ECT meets on a monthly basis to assure that analysis is moving forward.

BLM does not make policy to avoid lawsuits. Rather, BLM seeks to craft its work products to meet legal requirements and withstand litigation. As you know, the WEP has stirred controversy for a long time. We think that a thorough analysis of alternatives and consequences in the FSEIS will help us reach a robust decision that can stand up to legal scrutiny.

I hope that I have addressed your concerns regarding the role that BLM is playing in the WEP. I explained why wetland quality has improved north of the railroad tracks, how BLM analyzes wetland conditions and manages within the WEP corridor, and how BLM participates in preparation of the FSEIS for the WEP.

If you have additional questions, please contact Steve Calish, Siuslaw Field Office Manager, 541/683-6180.

Sincerely,



Mark Buckbee
Acting District Manager

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