

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF AUTHORIZING)	RESOLUTION NO. 89-1054
THE GENERAL COUNSEL TO INTERVENE)	
ON BEHALF OF THE DISTRICT IN)	Introduced by
<u>1000 FRIENDS OF OREGON V.</u>)	Councilor Ragsdale
<u>WASHINGTON COUNTY</u> (LUBA NO. 88-106,))	
88-107, 88-108))	

WHEREAS, 1000 Friends of Oregon has filed its Petition for Review by the Land Use Board of Appeals of the decision of Washington County to amend its Comprehensive Plan to provide for the construction of the Aloha Bypass; and


WHEREAS, 1000 Friends of Oregon's Petition for Review challenges the County action on the grounds that the action does not demonstrate that it is in compliance with the Statewide Goals; and

WHEREAS, The Assignments of Error raised by 1000 Friends of Oregon refuse to recognize Metro and Washington County's adoption of the Southwest Corridor Study Recommendations and Conclusions as establishing options for the further study needed before demonstrating compliance with the Goals; and

WHEREAS, It is in Metro's interest to appear in this matter in order to ensure that LUBA understands Metro's position on the necessity for making land use findings consistent with the Regional Transportation Plan and the Intergovernmental Agreement entered into between Metro and Washington County as required by Metro and the Joint Policy Alternatives Committee on Transportation at the time the Southwest Corridor Study Recommendations were adopted; now, therefore,

BE IT RESOLVED,

That the Council of the Metropolitan Service District authorizes the Office of General Counsel to petition the Land Use Board of Appeals to allow the Metropolitan Service District to intervene in the matter of 1000 Friends of Oregon v. Washington County, LUBA NO. 88-106, 107 and 108, and file a Brief and participate in an oral argument to the extent that LUBA shall so allow. Adopted by the Council this 23rd day of February, 1989.


Mike Ragsdale, Presiding Officer

DBC/gl



METRO

2000 S.W. First Avenue
Portland, OR 97201-5398
503/221-1646

Memorandum

Date: February 23, 1989

To: Daniel B. Cooper, General Counsel

From: Larry Shaw, Legal Counsel *LS*

Regarding: METRO INTERVENTION IN WASHINGTON COUNTY
TRANSPORTATION PLAN APPEAL

RECEIVED

FEB 23 1989

TIME: 12:15 pm
METRO SERVICE DISTRICT
OFFICE GENERAL COUNSEL

INTRODUCTION

1000 Friends of Oregon has appealed to LUBA Washington County's update of the Transportation Element of its Comprehensive Plan. The focus of the appeal is the corridor established for the "Western Bypass." The County followed the conclusions of Metro's Southwest Corridor Study by including the Western Bypass in their comprehensive plan in order for it to be included in ODOT's Six-Year Plan. All this is necessary in the federal transportation planning process. If 1000 Friends current legal theory is successful, the federal planning funds for all three major new long-term facilities in Metro's Regional Transportation Plan (RTP) may be threatened. Metro is the appropriate entity to present the complexities of the federal transportation planning process to LUBA.

1000 FRIENDS' CONCERN

With historical problems of urban growth onto agricultural and other resource lands in Washington County, 1000 Friends' brief asks LUBA to require complete statewide planning goal findings by Washington County, at the time the Western Bypass corridor is added to the County Comprehensive Plan. LUBA has no direct precedent on timing for review of transportation planning for long-term projects like the Bypass. Depending on the alignment chosen, some resource lands will probably be affected by this major new highway. If the County's inclusion of the Bypass in its plan were a final decision to build it, such findings are needed to show compliance with state land use law. If this were found by LUBA to be such a final decision, 1000 Friends must appeal to LUBA now or waive its right to object.

METRO INTEREST

As the "Metropolitan Planning Organization" for federal transportation planning, Metro through the regional consensus developed by JPACT, has a key role. Metro's federally funded Southwest Corridor Study recommended the new Bypass corridor as

the first alternative and improvements to existing highways as the second alternative. In the federal process, no decision to build either alternative is possible until an in depth study of all the impacts of both alternatives is completed. However, in order to obtain federal and state funds to further examine these alternatives, projects must be prioritized for study. Therefore, the Bypass must be included in Metro's RTP, ODOT's six-year plan, and the County comprehensive plan to receive federal planning funds.

Metro's interest is to successfully blend the federal and state requirements so that regional transportation planning can continue uninterrupted. If LUBA treats an early identification of a major long-term transportation facility, like the Bypass, as a final decision requiring full land use findings, the cart is before the horse.... State land use findings would be required before sufficient data is collected in the mandatory federal process to provide a basis for such findings.

CONCLUSIONS

1. 1000 Friends appeal is understandable, given the lack of LUBA precedent on long-term transportation planning, but its legal theory could damage regional transportation planning by conflicting with the federal process.
2. Washington County followed the conclusions of Metro's Southwest Corridor Study.
3. Metro could assist LUBA and the parties by intervening in the case to add its view of the relationships between the federal transportation planning requirements and state land use requirements developed by regional consensus in JPACT.

LS/gl
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