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Coordinated by:

**Smith & Bybee Lakes Wildlife Area  
Management Committee**

*Nancy Hendrickson, Chair*

**Metro**

600 NE Grand Ave.  
Portland, OR 97232  
(503) 797-1870

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**Smith & Bybee Lakes Management Committee Meeting**

5:30 p.m. - 7:00 p.m., Tuesday, February 26, 2002

Metro Regional Center, Room 270

600 N E Grand Ave.

Portland, Oregon 97232

**AGENDA**

Welcome and introductions/ <i>5 min.</i>	5:30 - 5:35 pm
Approve January meeting notes/ <i>5 min.</i>	5:35 - 5:40 pm
Update - Rivergate consent decree funding and projects (Stewart)/ <i>20 min.</i>	5:40 - 6:00 pm
Discussion - Integrating landfill with wildlife area (Hendrickson)/ <i>40 min.</i>	6:00 - 6:40 pm
Updates/ <i>10 min.</i>	6:40 - 6:50 pm
Setting March agenda/ <i>10 min.</i>	6:50 - 7:00 pm

**Smith & Bybee Lakes Management Committee  
Revised Summary Meeting Notes**

February 26, 2002  
5:30 pm

In attendance:

Troy Clark *	Portland Audubon Society
Dennis O'Neil	Metro Regional Environmental Management
Denise Rennis *	Port of Portland
Jim Sjulín *	Portland Parks
Pat Sullivan	Metro Regional Parks & Greenspaces
Pam Arden *	40 Mile Loop Trust
Nancy Hendrickson *	Portland Bureau of Environmental Services
Holly Michael *	Oregon Dept of Fish & Wildlife
Elaine Stewart	Metro Regional Parks Wildlife Area Mgr
Frank Opila *	Friends of Smith & Bybee Lakes

\* denotes voting member

**Rivergate consent decree funding and projects**

Elaine Stewart gave an update on the Rivergate Consent Decree which will provide \$285,000 for environmental mitigation projects and will be dedicated to the Smith & Bybee Lakes Wildlife Area. Listed below is current status of the funds and the work to be performed:

- The Port has deposited the funds in an account and will make payments as directed by the Corps of Engineers
- Stewart distributed a framework for spending the funds. The framework is consistent with project lists approved previously by the management committee. It was reviewed by staff from the Corps, EPA, USFWS and ODFW and received universal support. The initial breakdown of projects in the framework is:
  - \$160,000 - restoration of forest perimeter and meadow habitat, including \$6,000 for an AmeriCorps volunteer working on invasive species management
  - \$100,000 - relocation of human activity away from sensitive turtle habitat
  - \$ 25,000 - improvement of turtle nesting habitat along Marine Drive
- Metro and the Corps are working on an intergovernmental agreement, to implement the framework and fund specific projects
- Stewart added that she will make every attempt to leverage for additional funds.

Attendees were comfortable with the framework plan.

In response to a question, it was noted that Mikey Jones will have a 45-day comment period to review the projects and object to them. He will not have veto power, though; the Court will have the final word on any objections.

Another question related to funding for new facilities that would redirect human activity from the turtle habitat. Some "local share" bond funds were reallocated recently, and \$220,000 will go toward new facilities at the wildlife area.

Stewart showed the group the new aerial of the wildlife area, taken in July 2001; considerable drying of the lakes and emerging plant communities are visible. She pointed out the NRMP boundary, an overlay recently received from the City of Portland. Two areas, downstream of the Lombard Bridge and the westernmost edge, showed different boundaries than Stewart had understood them. She and Jim Sjulín will follow up to see whether these are mapping errors.

A question was asked about the North Lombard overcrossing project status. Jim Laubenthal at the Port of Portland is the project manager. Stewart will call him to see if an update for the management committee would be timely.

### **Integrating landfill with wildlife area**

To begin the discussion, Stewart distributed notes from an earlier meeting of the Metro executive office, department directors and legal counsel. In the document, they defined basic principles on interim and long-term use of the landfill and adjacent property. The Smith & Bybee Lakes Management Committee (SBLMC) took time to read the document in its entirety before proceeding to the discussion. Comments, concerns and questions included:

- The trail issue is not going away; it has been a long-term point of deliberation.
- This may not be the time to build the trail(s), but it is the time to plan for it. Is it worth waiting 20 years for the trail?
- If there is an opportunity for an interim trail somewhere else, it should be looked at.
- Committee members were troubled that there was no mention of the long ago adopted NRMP in the basic principles defined.
- A great deal has been learned about the landfill system in the 10 years since its closure.
- A document could be created describing SBLMC points of view then (10 years ago), now and looking ahead.
- Is there any reason anticipated for the closure plan to conflict with plans for the wildlife area as being considered by SBLMC?
- Should the SBLMC continue to make recommendations about the landfill in the absence of a master plan - formal or informal?

A consensus was reached that between this and the March meeting the Management Committee members will continue to consider the "basic principles" document of interim and long-term use on the SJL. They will communicate between themselves via e-mail on the issues and on that document in preparation for any further action at the March meeting. Nancy Hendrickson will initiate the communication.

### **Updates**

A copy of the letter from SBLMC to Mike Burton was distributed expressing appreciation for his denial of the permit application for PAMAA to fly model airplanes on the SJL.

A copy of the letter from SBLMC to Metro Council was distributed in support of Burton's proposal for a \$1.23 million excise tax package and additional funding for the wildlife area.

Stewart reported that construction on the new water control structure will begin this August.

Smith & Bybee Lakes Day will not be held this year. Metro staff and the Friends of Smith and Bybee Lakes are working on a new event to be held in 2003.

### **March 2002 meeting**

The agenda for March will include a presentation on the water control structure design from Ducks Unlimited.

### **January meeting notes**

Dennis O'Neil asked that a reference to the dike stabilization project made at the January meeting be included in the January notes. His suggestion for inclusion follows:

"Dennis O'Neil noted that, at the January meeting, a question was raised whether he had sought committee review for the cut-off wall. For the record, the minutes of the June 27, 1999 committee meeting indicate that Dennis discussed the dike stabilization project, specifically including the cut-off wall, with the committee. The meeting minutes of the July 27, 1999 indicate that the committee endorsed REM's proceeding with the application process for the stabilization/repair of the three critical areas of the landfill perimeter."

Approval of the notes was deferred until the March meeting so they may be reviewed with the inclusion of O'Neil's notes.

# Framework Plan for Expenditures under Rivergate Consent Decree

## Introduction

The Rivergate Consent Decree has provided \$285,000 for environmental mitigation projects at Smith and Bybee Lakes Wildlife Area. This plan provides an outline for work to be performed using those funds. This is a flexible framework, for two reasons. First, costs vary from year to year as a result of inflation, availability of materials, and other factors. Second, Metro will leverage this funding to the maximum extent possible. As additional funding is secured for these projects, the consent decree funds can be stretched farther to assist with more restoration work.

Restoration projects to be implemented under this plan include general habitat restoration projects and other projects that are focused specifically on western painted turtles. The initial funding breakdown is:

\$160,000	Restoring perimeter forest and meadow habitat
100,000	Redirecting human activity away from key western painted turtle habitat
<u>25,000</u>	Improving turtle nesting habitat
\$285,000	

## Perimeter Forest and Meadow Restoration (\$160,000)

This work is focused on higher sites, because restoration work at lower elevations will be accomplished primarily through water level manipulation. Separate funding has been secured to replace the existing dam at the end of the North Slough with a water control structure that provides much more ability to control water levels in the lakes. The recent dry summers allowed the lakes to dry for the first time in nearly 20 years, and emergent and woody vegetation responded very well. Thick stands of young willow surround the lake edge, and the lush and diverse emergent plant community demonstrates a healthy native seed bank. Controlling water levels and proper timing of annual drawdowns in the lakes will support these plant communities.

Restoration is needed at more than 300 acres of perimeter forest and meadow habitat on higher sites that do not flood. The price tag for restoring all of the 300 acres of upland habitat at the wildlife area is nearly \$2 million, more than \$6,500 per acre. This work is expensive for several reasons:

- The invasive species involved and the continual control efforts required,
- The inaccessibility of many sites and amount of hand work needed,
- The expense of native seeds, bare root plants and plant stakes from local stock.

Part of this funding will cover an AmeriCorps volunteer devoted to invasive species management at the wildlife area. This site steward will compile a list of invasive plants inhabiting the wildlife area and map their distribution. Other work includes researching effective control techniques, developing an invasive species management plan for the wildlife area, recruiting a volunteer

work force to handle infestations that can be managed with volunteers, and devising a monitoring plan. The total cost will be only \$6,000.

Funds from the Rivergate Consent Decree could complete restoration on more than 130 acres (see attached table 1). Nearly 80 acres have been planted to date, and funds are especially needed to maintain them. Originally, each site was to be planted and maintained for five years. However, experience has shown that canarygrass and blackberry are very persistent, and several additional years of diligent maintenance are needed to ensure development of a healthy canopy.

These funds can be leveraged with a variety of sources. Potential partners include the City of Portland's Watershed Revegetation Program (at BES), National Fish and Wildlife Foundation, National Marine Fisheries Service and Oregon Watershed Enhancement Board. The Watershed Revegetation Program has provided generous matches and expertise for restoration at the wildlife area since 1996. Interest earned on the U.S. Bank account (where the Port of Portland has deposited the funds) could help cover site maintenance.

All of the restoration work at Smith and Bybee Lakes Wildlife Area is linked to wildlife habitat objectives. A copy of the habitat restoration outline is attached. This is a working outline and is adjusted as needed.

This habitat restoration component works best as a framework, without committing specific dollar amounts to particular sites. This allows flexibility for changes in project costs and the ability to shift dollars to additional maintenance work when necessary.

#### Redirecting Human Activity from Sensitive Habitat (\$100,000)

This project diverts human activity away from important habitat for western painted turtles (*Chrysemys picta*), which are listed Sensitive-Critical by ODFW. Smith and Bybee Lakes Wildlife Area has what may be the largest population of painted turtles remaining in Oregon. More than 300 individual turtles have been marked in studies at the lakes.

Metro is working with the Port of Portland to secure a parcel along Smith Lake and develop new visitor facilities there. These facilities include a new entrance and parking area, as well as a boat launch on Smith Lake. The existing parking lot and informal boat launch will be discontinued.

The area of greatest human activity, the ponds and sloughs along North Marine Drive, is also the area with the greatest turtle activity at the wildlife area, including basking, nesting and overwintering. More than half of the turtles at the lakes are believed to reside in these ponds and sloughs. The informal boat launch off the parking lot leads into a slough that is heavily used by painted turtles. Basking turtles are repeatedly disturbed by boaters and retreat to the water, where they may remain for a considerable time before re-emerging. Turtles bask for thermoregulation, digestion, vitamin D synthesis, resting and other reasons; the energetic costs of this continual disturbance are unknown but may be great.

The easy access to prime turtle habitat also leaves them vulnerable to other human activities. Metro's wildlife area manager has received several anecdotal reports of poaching in recent years, and two turtles that had been illegally collected but left behind were found in early August 2001 (one had already died but the other was released). Several dead fish-hooked turtles have been found at Smith and Bybee lakes in recent years.

Locating the parking lot and other visitor facilities on the north side of Smith Lake, away from the ponds and sloughs, will provide relief for painted turtles from human activity. The canoe launch will be located directly on Smith Lake, and the informal launch at the ponds and sloughs will be discontinued. Much fishing activity will also be redirected to the larger lakes, which are used much less by turtles than the smaller ponds and sloughs. Drivers will not be able to take their vehicles onto the nesting area. People that illegally remove painted turtles will have to walk much farther to their vehicles, with much greater risk of being seen; this should serve as a deterrent to poaching.

Many other wildlife species will benefit from lowered human disturbance at the ponds and sloughs and Bybee Lake, and habitat restoration at the current parking lot. Removing asphalt and reforesting the parking area will contribute to the largest remaining contiguous forest patch at SBLWA, which is the only nesting site for interior forest birds such as Swainson's thrush. This forest patch will also serve as a buffer to separate people from the turtle nesting area and will help buffer the noise from North Marine Drive.

Metro will leverage the consent decree funds to the fullest extent possible for this project. If sufficient funds are secured through other sources, these funds can be redirected to additional forest and meadow habitat restoration. Metro is currently seeking project funds from several sources.

\$130,000 Oregon State Parks grant (capital improvement)  
245,000 Metro (local share for capital improvement, and staff time)  
100,000 Rivergate consent decree (capital improvement)  
\$475,000

#### Western Painted Turtle Nesting Habitat Improvement (\$25,000)

Nesting habitat will be improved by removing sand fill along North Marine Drive and replacing it with better nesting substrate, and replanting the area with forbs and bunchgrasses. The shoreline and adjacent upland area between North Marine Drive and the ponds and sloughs are known nesting areas for painted turtles. The network of deep ruts on shore attests to the number of vehicles driven throughout the area; few nests can survive this onslaught. The road-widening project that is under way at North Marine Drive will reduce available nesting habitat, but it will also remove most vehicle access points. The remaining access point will be the current wildlife area parking lot, which will be removed as soon as funding is secured for new visitor facilities along old North Marine Drive and Smith Lake.

This nesting area will become even more important as the Port destroys much of the 15 acres of nesting habitat at the Ramsey mitigation ponds, which is required under the consent decree. Many more acres of nesting habitat will be lost at the far west edge of the wildlife area ("T5" and "West Wye" mitigation sites), where the Port will soon convert upland to wetland in an effort to meet its mitigation requirements. These activities, combined with the widening of North Marine Drive, will cause substantial loss of the three most important nesting sites at the wildlife area.

The cost estimate for this project is very soft. The site is only a few acres, but its location between the ponds and the North Marine Drive construction zone will make it a difficult work location. Funds are needed for equipment time, imported soil, herbaceous plant seeds and bare-root shrubs. Work must take place in May, because turtle eggs and hatchlings may be in the ground every other month of the year. Firmer cost estimates will be developed when this framework is approved, and funds can be redirected to or from this project as needed.

### Conclusion

This plan provides a flexible framework for achieving habitat objectives at the Smith and Bybee Lakes Wildlife Area and meeting the environmental mitigation objectives of the Rivergate Consent Decree. The Smith and Bybee Lakes Management Committee endorsed the projects identified here as suitable candidates for expending Rivergate Consent Decree funds. Metro can invoice the Corps of Engineers as projects are completed, and brief summaries of completed projects can be provided with the invoices if desired. In addition, Metro can schedule site visits with Corps staff as projects are implemented.



**Table 1. Habitat restoration project cost summary by site**

	Acres	FY02	FY03	FY04	FY05	FY06	Totals
1 South side Smith Lake (planted 1996)	20	\$ 21,878	\$ 21,878	\$ 22,137			\$ 65,893
2 North and south isthmus (planted 2000)	26	\$ 21,878	\$ 21,878	\$ 22,137			\$ 65,893
3 North bank North Slough (planted 2001-2)	32	<b>\$ 88,362</b>	\$ 28,542	\$ 28,542	\$ 28,542	\$ 28,542	\$ 202,530
4 East bank St. Johns Landfill (planted 2001-2)	5	<b>\$ 16,338</b>	\$ 5,718	\$ 5,718	\$ 5,718	\$ 5,718	\$ 39,210
5 Interlakes trail-area opening	12		<b>\$ 41,976</b>	<b>\$ 33,456</b>	\$ 12,600	\$ 12,600	\$ 100,632
6 North and south isthmus (additional sites)	33	\$ 31,686	<b>\$ 156,163</b>	\$ 29,434	\$ 29,434	\$ 29,434	\$ 276,151
7 South peninsula Smith Lake	5	\$ 4,372	<b>\$ 10,994</b>	\$ 5,718	\$ 5,718	\$ 5,718	\$ 32,520
8 North Marine Drive existing forest	38	<i>Not scheduled or budgeted</i>					\$ -
9 Ford peninsula	47	<i>Not scheduled or budgeted</i>					\$ -
10 NW Bybee L. near Columbia Sportswear	15	<i>Not scheduled or budgeted</i>					
11 Northeast Smith Lake existing forest	108	<i>Not scheduled or budgeted</i>					\$ -
Totals*	341	\$ 162,636	\$ 265,271	\$ 125,005	\$ 82,012	\$ 82,012	\$ 716,936

\* Actual acreage for rows 1-7 = 133

**Bold** amounts include initial planting and second-year seeding activities; other figures are for site maintenance.

Typical schedule:

- Year 1 Site preparation, plant woody vegetation
- Year 2 Plant herbaceous plant seeds, maintain plantings (mow and/or spray)
- Year 3 Maintain plantings (mow and/or spray)
- Year 4 Maintain plantings (mow and/or spray)
- Year 5 Maintain plantings (mow and/or spray)
- Year 6 Maintain plantings (mow and/or spray)
- Year 7 Maintain plantings (mow and/or spray)
- Year 8 Maintain plantings (mow and/or spray)

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Coordinated by:

**Smith & Bybee Lakes Wildlife Area  
Management Committee**

*Nancy Hendrickson, Chair*

**Metro**

600 NE Grand Ave.  
Portland, OR 97232  
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February 20, 2002

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Executive Officer Mike Burton  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Dear Mr. Burton,

The Smith and Bybee Lakes Management Committee (SBLMC) has learned that you decided to deny the request of the Portland Area Model Aircraft Association to fly on the St. Johns Landfill site.

The SBLMC would like to thank you for not issuing the permit. We know this was not an easy decision for you to reach. We appreciate your careful consideration of the issues involved and your efforts to make the best decision.

Sincerely,

Nancy Hendrickson  
Chair

cc     Councilor Carl Hosticka  
       Councilor Bill Atherton  
       Councilor David Bragdon  
       Councilor Rex Burkholder  
       Councilor Susan McLain  
       Councilor Rod Monroe  
       Councilor Rod Park  
       Charles Ciecko, Director, Regional Parks and Greenspaces  
       Terry Petersen, Director, Regional Environmental Management

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February 20, 2002

Presiding Officer Carl Hosticka  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Dear Mr. Hosticka,

The Smith and Bybee Lakes Management Committee is writing to support the \$1.23 million excise tax package for Regional Parks and Greenspaces that is included in the Executive Officer's proposed budget. This amounts to \$1.00/ton increase in the excise tax. We feel these are essential services and needs, and the proposed excise tax increase is modest relative to the benefits it will provide.

Included in the excise tax package is \$107,000 for Smith and Bybee Lakes Wildlife Area. As proposed by the Executive Officer, this is a one-time-only relief package that will reduce the amount of fund balance to be spent next fiscal year and allow for hiring a seasonal worker for one year. We applaud and support the Executive Officer's work to fund management of the wildlife area.

We are requesting that you consider additional relief for the Smith and Bybee Lakes Fund (Fund). As you may know, the Fund was established with funds from the St. Johns Landfill, which is located within the wildlife area. This nexus makes solid waste-based funding logical and appropriate for the wildlife area.

Since the Fund's inception, Metro has generally limited spending to the amount of interest earned each year. This conservative approach has helped preserve the principal and ensure that some funds will be available in the future. Even with this conservative approach, several problems have become apparent:

1. When interest rates are low (as they are now), it is impossible to maintain a skeletal level of staff and maintenance without spending fund balance. For example, anticipated interest earnings for FY 2001-02 will fall more than \$100,000 short of what is needed for minimal staff and operations.
2. The Fund is not keeping up with inflation. Because all of the interest earnings are needed for baseline staffing and maintenance, interest is rarely reinvested in the Fund. Thus the

Fund itself does not grow and earns less each year in real dollars even when interest rates remain favorable.

3. Overhead costs in general continue to increase. For next fiscal year, the overhead rate is 23 percent of the operating budget. As the overhead cost increases, the funding for habitat restoration and maintenance and other necessary work shrinks or disappears entirely.

The Smith and Bybee Lakes Management Committee requests that the Metro Council consider making the \$107,000 relief for the Fund ongoing, instead of one time only. This will allow Metro to avoid using Fund balance in lean years and allow the Fund to grow in better years. This funding is needed for essential, baseline work at the wildlife area.

Approximately \$165,000 is needed just to provide "bare bones" operation:

- a full-time manager;
- a half-time naturalist;
- a 4-month seasonal worker;
- a vehicle, portable toilet, office space, telephone, and other basic supplies and services; and
- overhead costs paid for Support Services;

This "bare bones" example includes no funding for new restoration projects or maintenance of existing restoration projects.

Typically, the Smith & Bybee Lakes Fund uses only interest earnings (and grants, when possible) to pay for operations, maintenance and habitat restoration activities in the wildlife area. This funding source provides for the minimal maintenance and operations needs in the best of economic conditions, but is not sufficient when interest rate earnings are low, such as are projected for FY 2002-03. When the Fund's principal is used to pay for operations costs, and when the principal does not grow annually, the long term projections for this fund look grim. Because of inflation, the Fund's principal must grow annually if the interest earnings are to be adequate to meet just the basic operational needs of the wildlife area.

Funding the Smith & Bybee Lakes Wildlife Area at only a minimal level will not meet the urgent maintenance and restoration needs. It is estimated that to restore the upland habitats surrounding the wetlands, approximately \$2 million is needed. There are many grant and other external funding opportunities for this restoration work, typically with a hard match requirement of 25 percent. Funding the wildlife area only at minimal levels does not provide enough resources to meet this match requirement, and restoration projects are not funded. Additional needs at the wildlife area include the costs of maintaining previously restored habitat areas and maintenance and operations needs associated with the development of the recreational facilities.

In addition to maintaining the \$107,000 contribution from excise tax as ongoing support for this program, we would like to ask that the Metro Council consider an additional \$0.05 to \$0.10 per ton devoted to Smith & Bybee Lakes. This would generate approximately \$60,000 to \$120,000 that would be available as matching money for restoration grants as well as provide resources for maintenance of restoration projects. Only with restoration projects and on-going maintenance of these projects will the wildlife area's habitats be restored.

Finally, we would like to request that the Metro Council examine the increase in the overhead rate and consider ways to reduce it. Nearly all of the interest earnings for FY 2002-03 (\$54,236) will go to pay for support services costs (\$43,257). With 23% of the operating budget going toward central services administrative costs, the Smith and Bybee Lakes Fund is surely not the only fund that needs relief from this burden.

The Smith & Bybee Lakes Management Committee is aware of the impressive and timely work of the Council's Green Ribbon Committee, and recognizes that the excise tax proposal before you is intended to be an interim step to stabilize current Parks programs until the Green Ribbon Committee Recommendations can be evaluated and acted upon. In the event that those recommendations are implemented and other funding sources are secured for Smith and Bybee Lakes Wildlife Area, the interim excise tax support could be discontinued.

Thank you for considering our request. Please do not hesitate to contact me if you have questions or need additional information.

Sincerely,

Nancy Hendrickson  
Chair

cc     Councilor Bill Atherton  
       Councilor David Bragdon  
       Councilor Rex Burkholder  
       Councilor Susan McLain  
       Councilor Rod Monroe  
       Councilor Rod Park  
       Executive Officer Mike Burton  
       Charles Ciecko, Director, Regional Parks and Greenspaces  
       Terry Petersen, Director, Regional Environmental Management

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**Smith & Bybee Lakes Wildlife Area  
Management Committee**

*Nancy Hendrickson, Chair*

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Coordinated by:

**Metro**

600 NE Grand Ave.  
Portland, OR 97232  
(503) 797-1515

January 25, 2002

Executive Officer Mike Burton  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Dear Mr. Burton,

The Smith and Bybee Lakes Management Committee (SBLMC) has learned that you decided to deny the request of the Portland Area Model Aircraft Association to fly on the St. Johns Landfill site.

The SBLMC would like to thank you for denying the permit. We know this was not an easy decision for you to reach. We appreciate your careful consideration of the issues involved and your efforts to make the best decision.

Sincerely,

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