

Brief History of the Proposed Water Control Structure at Smith and Bybee Lakes

1. The Cooperative Agreement to establish a Rivergate development program and an acceptable mitigation program for wetland impacts was signed in **1989**. Signatories to the Agreement are the Port of Portland, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Oregon Division of State Lands and Oregon Department of Fish and Wildlife
2. **September 1990**-Port proposes a conceptual design for a water control structure at Smith and Bybee Lakes to fulfill part of their obligation under the Rivergate Agreement.
3. In the latter half of **1991** the Smith and Bybee Lakes Technical Advisory Co. (TAC) was established to advise the Smith and Bybee Lakes Management Co. on technical issues. The TAC is composed of governmental natural resource agencies, environmental groups and natural resource professionals. The Port of Portland has a representative on the TAC. They have always participated in meetings. At the first meeting, the TAC approved the Port's proposed water control structure.
4. The present water control structure was completed in **October 1992**. It continues to function as designed. Maintaining the lakes at least 6.5' MSL.
5. To look at the effects of the dam of the lakes' ecosystem, Jim Morgan contracted three studies between **1992-1995**. He summarized the findings and other information in a 1996 report. Each report recommended allowing water levels to fluctuate with the changes in the levels of the Columbia and Willamette Rivers by removal of the existing structure on the outflow to the lakes.
 - *Biota of Smith and Bybee Lakes Management Area* (Lev et al., 1994)
 - *Recent Paleolimnology of Smith and Bybee Lakes, Oregon* (Eilers et al., 1995)
 - *Hydraulic and Water Quality Modeling of Opening Smith and Bybee Lakes to the Lower Columbia Slough* (Wells, 1995)
 - *Diagnostic and Feasibility Study of Smith and Bybee Lakes* (Morgan, 1996)
6. On **June 28, 1995** the TAC recommended replacement of the dam with a flow control structure that would allow unobstructed flow both in and out of the lakes. A representative of the Port was in attendance.
7. The TAC recommendation was adopted by the Smith and Bybee Lakes Management Committee on **August 15, 1995**. The Port is a member of the Management Co.
8. Between **September 1995 and March 1996**, Jim Morgan worked with Port of Portland personnel (Brian Campbell and Rollie Montagne) on removing the water control structure. It was decided during this time that the signatories to the Rivergate agreement needed to approve the proposed change in water management and the agreement amended.
9. **March 1996**, in a status report on the Rivergate Fill Agreement the Port stated that Metro decided that measures 8 & 9 were not appropriate and should be replaced. Since the construction of the 1992 structure was never formalized in the agreement (#8), and progress was being made to modify #9, the Port was waiting on agreement among the agencies before proceeding with Agreement modifications.

10. **May 18, 1996**, in a letter addressed to Jim Morgan, Ducks Unlimited estimates the cost of removing the earthen dam and constructing an open culvert structure would be \$287,000. Predesign and design costs of \$36,000 are anticipated. This cost is based on Ducks Unlimited having turnkey design-build authority and that their contracting procedures are used.
11. **August 12, 1996** Emily Roth is hired as the first full time manager of Smith and Bybee Lakes Wildlife Area.
12. **September 12, 1996** the Port of Portland convenes the Rivergate Agreement signatories to review the agreement, discuss a project to complete the outstanding obligations and define a process to amend and finalize the agreement. Jim Morgan gave a presentation at the meeting on the change in water management and the proposed Ducks Unlimited design. Consensus was not reached on the removal or modification of the current structure. The Port agreed to reconvene the committee in November.
13. At the **November 20, 1996** meeting of the signatory agencies it was agreed that reconstruction of the water control structure was the preferred project to complete the agreement (stated in a March 4, 1997 letter from the Port to signatory agencies).
14. **December 10, 1996**, Emily Roth presents the change in water management to the Regional Parks and Greenspaces Advisory Co. They approve the recommendation.
15. **Late December 1996**, the Port of Portland sent a letter to the signatories and Metro outlining three options to complete the project. At that time the simple transfer of funds to Metro for construction without continuing Port responsibility for construction performance was rejected by the Agencies.
16. In a letter dated **February 13, 1997** addressed to Brian Campbell, Port of Portland, Emily Roth inquired on the status of the Rivergate Agreement modifications.
17. On **February 20, 1997** the Port sends out proposed revisions to the Rivergate Agreement for projects #8 and 9. The proposed revisions include the construction of the new water control structure to allow unrestricted flow between the lakes and Columbia Slough to replace the original #9.
18. **March 4, 1997** the Port of Portland faxed a letter to signatory agencies and Metro outlining their understanding of where the process was and proposed revisions to the entire Rivergate Fill Mitigation Agreement. They also included unanswered questions from the U.S. Fish and Wildlife Service about completion of other projects.
19. **May 22, 1997** the Port, Metro and Ducks Unlimited met to discuss the water control structure design and steps to implement the project.
20. In a letter dated **June 23, 1997**, the Port sends Ducks Unlimited requested information on documents relating to the project.
21. Fax received **August 8, 1997** from the Port states that Ducks Unlimited is doing preliminary design work on the structure and construction is delayed until 1998.

22. Fax received **September 16, 1997** from the Port cancelled the September 29 meeting of signatory agencies. They are pulling together an action plan and documentation for agency review.
23. The Port sent out their proposed revisions to the Rivergate Agreement in **October 1997**. At that time they asked for comments. Metro did not receive a copy until December 2, 1997. Again, the Port agrees to construct the water control structure.
24. In a letter date **October 17, 1997** to the Port, Ducks Unlimited requests \$7,000 for conceptual design as well as cost estimates for the work.
25. During **December 1997** there are the U.S. Fish and Wildlife Service sends proposed changes to the revised Rivergate Agreement to the Port.

No further correspondence was received in **1998**. William Michael Jones sues the Port of Portland and the Corps of Engineers around **March or April 1998**. Since that time, the Port has not discussed revisions to the Rivergate Agreement.