

May 1, 2002

Jessica Wilcox  
OPDR  
City of Portland  
Suite 4500  
1900 SW Fourth Avenue  
Portland, OR 97201

Dear Ms Wilcox,

I am writing on behalf of the Audubon Society of Portland, a 10,000 member local chapter of the National Audubon Society in support of Metro's proposal (LU 02-113706 EN) to remove the existing flap gate and weir system and part of the earth dam, and to replace these structures an open, more versatile water control structure. In our opinion, this is one of the most important restoration projects to be conducted in the 2,000-acre Smith and Bybee Lakes natural area.

The project, as outlined by Metro will assist in restoring hundreds of acres of bottomland hardwood forest and emergent wetland, as well as providing off-channel habitat for salmonids and mudflats for shorebirds.

I sat on the original Smith and Bybee Lakes management committee more than a decade ago when the USFWS installed the existing water control structure as a measure to raise water levels so that potentially botulism-laden dead waterfowl could more easily be removed from the lakes. This single-purpose measure will be replaced with a more multiobjective water control management regime in the current proposal.

We urge OPDR to issue permits associated with this project and assist in expediting its installation.

Respectfully,

Mike Houck,  
Urban Naturalist

May 7, 2002

Jessica Wilcox  
OPDR - City of Portland  
Suite 4500  
1900 SW Fourth Ave.  
Portland, OR 97201

RE: Smith and Bybee Lakes Wildlife Area; LU 02-113706 EN

Dear Ms. Wilcox,

The Wetlands Conservancy (TWC), a non-profit land trust that works to protect wetlands around the State of Oregon, encourages the City of Portland to approve the water control structure project permit being reviewed at this time. As a landowner within the wildlife area and a voting member of the Smith and Bybee Lakes Management Committee, TWC supports the removal of the existing weir and flap gate system, replacing it with large box culverts that allow tidal flows back into the wetland system.

Smith and Bybee Lakes were historically connected to the Columbia Slough/Willamette River system through the North Slough. In 1982 when the original weir structure was installed, it changed the hydrologic regime of the wetland system to the detriment of the flora and fauna that lived in the area. The weir structure allowed for a warm water fishery to flourish, drowned out over 350 acres of bottomland hardwood forest, and changed the ecology of the system from a wetland to lake environment.

The proposed project will allow the lakes to return to a more natural environment by returning the historical hydrologic regime. It will also restore hundreds of acres of bottomland hardwood forest and emergent marsh, provide off-channel habitat for salmonids and mudflats for shorebirds. The proposed structure will still allow the Wildlife Area Manager to manage water levels to control invasive species, stop the flow of water into the wildlife area if there was a hazardous spill in the Columbia Slough or manage for a particular species.

The Smith and Bybee Lakes Management Committee has discussed this project for numerous years. The Committee has reviewed various options for placement of the water control, the possible affects of the St. Johns Landfill on the water quality of the ecosystem, the benefits and detriments to the area. They voted to support the present project. TWC agrees with the Committee's finding that the placement and design of the proposed water control structure is the best start for returning the wildlife area to its historic conditions. The restored wetland habitats will greatly benefit the fish and wildlife in the area.

Please contact me if you have any questions about TWC's comments or if a public hearing is scheduled for this project.

Thank you for your thorough review of the project and consideration of our comments.

Sincerely,

Esther Lev, Director

Cc: Elaine Stewart, Metro Parks and Greenspaces  
Nancy Hendrickson, Smith and Bybee Lakes Management Co.  
Troy Clark, Friends of Smith and Bybee Lakes

**From:** Elaine Stewart  
**To:** jwilcox@ci.portland.or.us  
**Date:** 5/7/02 10:31AM  
**Subject:** Background information

Hi Jessica,

Got your voice mail this morning. Here are a few paragraphs that will hopefully provide you what you need.

The dam was installed in 1982 to impound water in the lakes in response to an avian botulism outbreak. Wildlife agencies hoped to avoid waterfowl die-offs in the wildlife area by maintaining higher water levels, dispersing the birds. No major outbreaks have occurred since the late 1970s, and wildlife agencies agree that the habitat value of a restored wetland far exceeds the value of impounded lakes.

In the 1990s, a flap gate was installed in the existing structure. The purpose of the gate was to allow water to slowly drain from the lakes but not enter from the slough. Combined sewer overflows during rainfall events reduced water quality in the Columbia Slough, and the goal was to keep this water out of the lakes. Completion of the "big pipe" project has essentially eliminated CSOs from the Columbia Slough and removed this concern.

A person has expressed concern whether improved water circulation and greater changes in water levels could result in the movement of contaminants from the North Slough into the lakes, possibly causing water quality deterioration in the lakes. In accordance with permits and policies related to St. Johns Landfill and the wildlife area, Metro's Regional Environmental Management Department (REM) routinely monitors surface water and sediments in the lakes and Columbia Slough (including the North Slough), and groundwater around the perimeter of the landfill. Monitoring data collected over the past several years indicate that contaminant levels in the lakes are not significantly different than those in the slough; this includes both water column and sediment samples. A 1994 screening level risk assessment of the wildlife area indicated that human and ecological risks posed by lake contaminants were not significantly different than those posed by contaminants found in the slough. In addition, REM has modeled groundwater and surface water flow in the vicinity of the landfill. Data from these ongoing efforts allow Metro to detect significant changes in water quality, and where required, to implement the management options necessary to address those changes.

---

Elaine Stewart  
Smith and Bybee Lakes Wildlife Area Manager  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Tel 503.797.1515  
Fax 503.797.1849  
stewart@metro.dst.or.us

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May 7, 2002

Jessica Wilcox  
OPDR  
City of Portland  
1900 SW 4<sup>th</sup> Suite # 4500  
Portland, OR 97201

re: LU 02-113706 EN

Dear Ms Wilcox,

The Friends of Smith and Bybee Lakes (Friends) have advocated the replacement of the existing water control structure in the Smith and Bybee Lakes Wildlife Area (SBLWA) for years. This permit application marks the threshold of an important restoration work which we heartily endorse. Our mission statement seeks the conservation, restoration and enhancement of the wildlife area as a historical remnant of the Columbia River estuary system.

Replacement of the present water control structure will restore some of the historical hydrology, tidal relationship and water exchange between the Willamette River and the lakes. The degradation of water quality since the 1982 placement of the dam on the North Slough can be reversed by the removal of this structure. One area of concern imbedded in the removal decision has been the issue of leachate from the St. Johns Landfill fouling the North Slough and then entering the lakes through the proposed open box culvert design. We have struggled with this question and remain undecided as to the long term consequences. We believe, however, the proposed water control structure provides a way to shut off the flow of water from the slough into the lakes should an emergency arise. A great benefit of the proposed weir is the actual capability of water regime management, which has been largely absent for the past 20 years.

The SBLWA is one of the largest intact remnants of a once expansive tidal flood plain. The impacts of fill and development have increased the importance and value of this area. We believe restoring the tidal connection between the lakes and the rivers will greatly enhance a variety of crucial habitats; including upland riparian forest for mammals and birds, emergent wetland for insects, amphibians and reptiles, as well as native fish use in the seasonal lakes. Habitat restoration is the primary goal of this construction permit.

Removing the dam and the impounding of water will affect some of the recreation opportunities the public has come to expect in this area, particularly year round fishing and canoeing. But it is the firm opinion of the Friends that the overall benefits of this project to water quality, wildlife habitat, riparian forest restoration and emergent wetland creation warrant the approval of this permit. The Friends urge that this should be your conclusion as well.

Thank you for your consideration of this matter,

Troy Clark, President  
Friends of Smith and Bybee Lakes



CITY OF  
**PORTLAND, OREGON**

OFFICE OF PLANNING AND DEVELOPMENT REVIEW

1900 S.W. 4th Avenue, Suite 5000  
Portland, Oregon 97201  
(503) 823-7300  
FAX: (503) 823-6983  
TDD: (503) 823-6868  
<http://www.opdr.ci.portland.or.us>

**Land Use Review Response**  
Site Development Section, OPDR

To: Jessica Wilcox, LUR Division  
From: Mike Hayakawa, Site Development (823-7539) *MHA*

Location/Legal: Multiple.  
Land Use Review: LUR 02-113706 EN (Smith and Bybee Lake)  
Proposal: Remove and replace water control structure  
Quarter Sec. Map: Multiple.  
Date: May 9, 2002

A building permit is required for this work. All inspections for requirements of this land use review will occur in association with the building permit inspections.

Site Development has reviewed the construction management plan and it is not sufficient to identify the total areas of disturbance and why spoils must be stored within the environmental zone. We recommend that the LUR Division review and approve a construction management plan that clearly delineates areas of disturbance. Those areas should be protected through the use of construction fences. Similarly, the attached erosion control plan is not sufficient to determine compliance with Title 10 requirements. We recommend that an erosion control plan be reviewed and approved as part of this land use review.

This area is in the flood plain and therefore this project is subject to the requirements of Chapter 24.50, Flood Hazards, and in particular, the balanced cut and fill requirement. Site Development has not received any information on whether the project will comply with this requirement. At the time of plan review, the applicant must submit materials that demonstrate compliance with this requirement. If the applicant is unable to meet this requirement within the parameters established by the environmental review decision, it is possible that a new environmental review will be required.

Fax Note	7671	Date	5/10	# of pages	4
<i>Deanne S.</i>		From	<i>Jessica</i>		
epf.		Co.			
Phone #	<i>503.797-1849</i>	Phone #	<i>823-7848</i>		
Fax #		Fax #			

William Michael Jones  
2716 NE Mason  
Portland, OR 97211  
(503) 284-0502

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PLANNING BUREAU  
MAY 10 A 8 58

May 10, 2002

Jessica Wilcox  
Office of Planning and Development Review  
Land Use Review Division  
1900 SW Fourth Ave. Suite 5000  
Portland, Oregon 97201

RE: CASE FILE NUMBER: LU 02-113706 EN

Dear Interested Persons and Jessica Wilcox:

I oppose the processing of the request for development in LU 02-113706 EN for both procedural and environmental reasons. The following is a short and incomplete list of those reasons.

1. This request for development should not be processed as a type II development because the proposal does not provide for construction of the long-planned and promised recreational trail, the Forty-Mile Loop. Because this recreation trail is represented in the area to be developed and foreclosed by the development, the proposal is in fact an ad hoc request for a change in the city's Comprehensive Plan Map. The request and proposal is in fact a Comprehensive Plan amendment. Unless the trail is provided for in the request, it may not be accomplished by a type II review. The people of North Portland have provided three million dollars to the Management Committee by agreeing to forego a park on the landfill. There is no reason to wait to build this trail, except Metro's secret decision not to build it. The trail could remain in the planned location if the water control structure also served as a bridge.

2. The Smith and Bybee Lakes Natural Resources Management Plan has never received the obligatory review by L.C.D.C. and is insufficient in law to serve as an exception to the Portland City Code (PCC). Given this fact, the applicant has not met the conditions for a complete application. This is an environmentally zoned area and there are other areas more efficacious and much safer places in which this structure may be built.

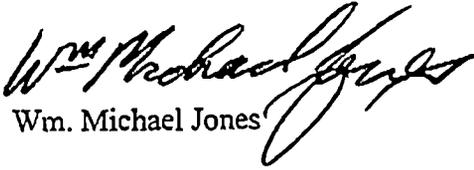
3. Built in this location, the very negative effects of the landfill will influence the lakes and the health of North Portland citizens and will make the lakes part of the Columbia Slough System, a Water Quality Limited (WQL) water. Polluting one body of water with another is a violation of State and Federal Law which the City must consider.

4. As a part of the entire management plan the project may be considered in conformance with the management plan, but this is the only development Metro considers and will consider. Without the other projects in the management plan, this development is an abandonment of the central feature of the management plan as it was designed. Smith Lake was not to be drained in tandem with Bybee Lake in order to provide for passive recreation and fishing in the summer. Metro has clearly stated its intention to make Smith and Bybee Lakes into Smith and Bybee Meadows. If Metro would change the management plan, it should allow the neighborhood the same reasoned consideration that was provided in the formulation of the original plan.

I request notification of any action taken on this proposal. I believe the Proposal deserves a hearing – not held by Metro, but the Planing Commission – and with far more public notice than afforded so far. I am no shrinking violet, but I am intimidated by the tone of Metro's meetings regarding these issues. My comment period was limited to a

single day due to the lack of notice provided this project. Parts of the management plan Metro would abandon have been promised to North Portland since 1967.

Sincerely,



Wm. Michael Jones



# Oregon

John A. Kitzhaber, M.D., Governor

Department of Fish and Wildlife

Northwest Region

17330 SE Evelyn Street

Clackamas, OR 97015-9514

(503) 657-2000

FAX (503) 657-2050

May 10, 2002

Jessica Wilcox  
OPDR – City of Portland  
Suite 4500  
1900 SW Fourth Avenue  
Portland, Oregon 97201



RE: Smith and Bybee Lakes Water Control Structure  
LU 02-113706

Dear Ms. Wilcox,

The Oregon Department of Fish and Wildlife (ODFW) is hereby providing written support for the Smith and Bybee Lakes water control structure project.

The proposed project provides significant benefits to fish, wildlife and habitats. There will be more flexibility in water management options, and opportunities for diversifying habitats. Restoration of bottomland forest, seasonal mudflats, and emergent wetlands will enhance habitat for a variety of fish and wildlife species.

Smith and Bybee Lakes provide rearing habitat for winter steelhead (federally listed as threatened), spring and fall chinook, (federally listed as threatened), and coho salmon (state listed as endangered). Smith and Bybee Lakes also provide a very important urban fishery for anglers in the Portland Metro Area. Largemouth bass, black crappie, and yellow perch are present in these lakes.

Our District has reviewed the project on site and offered recommendations for fish passage. The ladder design offers much improvement over the existing tidegate structure. Juvenile salmonids will have easier access to the wetlands for rearing, throughout the winter and early spring months. Loss of winter habitat has been shown to be one of the limiting factors for salmonid recovery in the Willamette Basin.

Waterfowl, shorebirds, raptors, turtles, amphibians, bats, neo-tropical migratory songbirds and other species will benefit from the restoration effort. Several species are listed as Sensitive Species by ODFW. Smith and Bybee Lakes provide both seasonal and year-round habitats that are critical to these species. ODFW has provided input to Metro on enhancement and restoration of these habitats for wildlife.



Smith & Bybee Lakes

May 10, 2002

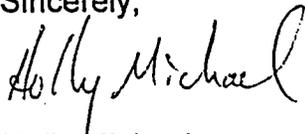
Page 2

The original water control structure was installed in 1982, in response to an outbreak of avian botulism in the 1970's. There have been no outbreaks since then, and the values that a restored wetland complex provides for wildlife outweigh the need for impounding water for disease control.

We understand there's an opportunity to revisit the trail alignment options, and look forward to working with Metro and others to develop a trail system that provides recreational benefits while protecting the natural resource values at Smith and Bybee Lakes.

Thank you for the opportunity to provide input on the project. Please contact us if you have any questions regarding these comments.

Sincerely,



Holly Michael  
Wildlife Diversity Biologist  
N. Willamette District



for Jim Muck  
Jim Muck  
District Fish Biologist  
N. Willamette District

**From:** "Hendrickson, Nancy" <NANCYH@BES.CI.PORTLAND.OR.US>  
**To:** 'Elaine Stewart' <stewarte@metro.dst.or.us>  
**Date:** 5/13/02 4:56PM  
**Subject:** water control structure

Elaine, FYI, these are the comments I submitted. Thought you would like to know.

Nancy

> -----Original Message-----

>

>

> The Columbia Slough Watershed Planning Group in BES supports this project.

>

>

> The current water control structure at Smith and Bybee Lakes allows very  
> few management options for the water in the Lakes. Because of its small  
> size, high invert, and one-way gate structure, it severely restricts water  
> flow out of the lakes and does not allow water to flow into the Lakes  
> except during very high winter flows.

>

> The replacement will return a more natural hydrology to the Lakes system  
> while still allowing management of water levels for suppression of both  
> Reed Canary Grass and avian botulism.

>

> The fish ladder in the replacement water control structure will open up  
> the Lakes as valuable 'salmonid refugia' for salmonids using the Lower  
> Slough and Willamette River.

>

> If at all possible, the structure should be designed to allow small  
> non-motorized boat access (e.g. canoes and kayaks) between the Lower  
> Slough and Smith & Bybee Lakes.

>

>

> .....

> Nancy Hendrickson  
> Columbia Slough Watershed Manager  
> Bureau of Environmental Services  
> 1120 SW Fifth, Room 1000  
> Portland, Oregon 97204

>

> 503-823-6001 (phone)  
> 503-823-5344 (fax)

>

> NancyH@bes.ci.portland.or.us

>

>

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PLANNING DEPT

MAY 14 10 17

St. John's Neighborhood Association  
Raymond Piltz, Co-Chair Land Use  
7209 N. Buchanan  
Portland, Oregon 97203  
(503) 286-5444

May 14, 2002

Jessica Wilcox  
Office of Planning and Development Review  
Land Use Review Division  
1900 S.W. Fourth Ave. Suite 5000  
Portland, Oregon 97201

RE: CASE FILE NUMBER: LU 02-113706 EN

Dear Jessica Wilcox:

The St. John's Neighborhood Association would like to go on record in opposition to the request for development, referred to in LU 02-113706 EN. Several questions need to be answered before this project is carried forward.

The model airplane clubs (5) of Portland, Oregon would like to have a landing field and parking lot obligated to them before this project goes ahead.

The Oregon Bass and Pan fish Club was also promised a plan to enhance the Spiny Ray Fishery that existed before this present dam was built. This also was part of the original plan that was put forth on the closing of the Municipal Dump.

St. John's Neighborhood Association at present has not contacted the people responsible for the 40 Mile Loop Trail, but would hope a hearing will bring "ALL" affected people into what the Management of Smith & Bybee Lakes have proposed.

In conclusion the St. John's Neighborhood Association would like a hearing on the request for development of LU 02-113706 EN. The past obligations have not been lived up to.

Please feel free to contact me at 503-286-5444 with any questions regarding this letter. We at St. John's Neighborhood Association are sorry for the late addition to this situation, but our meetings are on a monthly basis, 2<sup>nd</sup> Monday of the month and this leaves very little time to reply to some correspondence.

Sincerely,  
Ray Piltz  
Co-Chair Land Use  
St. John's Neighborhood Association



**From:** "Wenger, Stacey" <swenger@ci.portland.or.us>  
**To:** 'Elaine Stewart' <stewarte@metro.dst.or.us>  
**Date:** 7/24/02 6:01PM  
**Subject:** RE: Extension for water control structure LUR decision

I will place this email in the file and this will serve to extend the land use review until September 1.

-----Original Message-----

**From:** Elaine Stewart [mailto:stewarte@metro.dst.or.us]  
**Sent:** Wednesday, July 24, 2002 11:31 AM  
**To:** swenger@ci.portland.or.us  
**Subject:** Extension for water control structure LUR decision

Hi Stacey,

I think I mentioned to you that this issue has entered the political realm now. (It's tied to the landfill bank stabilization LUR also, and Metro officials are discussing the LURs with city officials now.)

Anyway, I have no idea when this is going to be resolved. Can we put an extension on the LUR decision to September, and check in again then? I've already missed the construction window of opportunity for this year, but I still hope to get this resolved reasonably soon and press on with the site development permit.

I will be in the field today and home with a sick child Thursday (and maybe Friday), but I would like to visit with you about the project since it's on your plate now. I'll call you on Monday and see if we can connect.

Thanks for your patience. Hope you've been having some good days on the water this summer.

-Elaine

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Elaine Stewart  
Smith and Bybee Lakes Wildlife Area Manager  
Metro  
600 NE Grand Avenue  
Portland, OR 97232-2736

Tel 503.797.1515  
Fax 503.797.1849  
stewarte@metro.dst.or.us

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**From:** "Wenger, Stacey" <swenger@ci.portland.or.us>  
**To:** 'Elaine Stewart' <stewarte@metro.dst.or.us>  
**Date:** 8/27/02 7:16AM  
**Subject:** RE: Trail alignment at Smith & Bybee Lakes (LU 02-113706 EN)

No, the intent would be for Metro to construct a only a segment of the trail proportional to that which would have been constructed across the water control structure.

The wording could go something like this:

*insert below*  
 ...this plan amendment shall have been accompanied by a proposal to construct a proportional segment of the trail within the proposed new alignment, by a specified date; or.....

alternatively

X ...this plan amendment shall have been accompanied by a proposal to construct a \_\_\_\_\_-foot long segment of the trail within the proposed new alignment, by a specified date; or.....

-----Original Message-----

From: Elaine Stewart [mailto:stewarte@metro.dst.or.us]  
 Sent: Wednesday, August 21, 2002 2:57 PM  
 To: swenger@ci.portland.or.us  
 Subject: Re: Trail alignment at Smith & Bybee Lakes (LU 02-113706 EN)

Stacey,

A question for you - re the option below for a minor amendment of the NRMP with the new trail alignment. It includes "a proposal to construct the trail within the proposed new alignment, by a specified date"; does this mean a requirement for Metro to build all of the trail within the wildlife area by a specified date? Seems like a big increase from the trail within the disturbance area (first option). Also, does that then mean that Metro would bear sole responsibility for funding 40-mile Loop trail construction within the wildlife area? These are new issues... (the NRMP states that Portland Parks is to build any trail segments on the landfill - pollicy 14 page 52- as one example of why some of these issues need to be discussed in a trail planning process)

-Elaine

>>> "Wenger, Stacey" <swenger@ci.portland.or.us> 08/20/02 11:32AM >>>

Tommy,

in response to yesterday's voice mail, I have two comments:

1) Metro's last correspondence stopped the LUR 120-day clock until September 1. If Metro wishes to stop the clock indefinitely, they need to sign the attached standard 120-day waiver form, and submit it to the application case file. Elaine, I've attached the waiver form for your use, should you and Pete Sandrock decide to stop the clock for additional time.

2) Regarding draft Condition B: in addition to requiring that the water control structure design be revised to accommodate the trail before it is approved in this LUR, I would support re-drafting Condition B to read as follows:

Within 3 years of the date this Decision becomes final, the applicant shall document that one of the following has occurred:

\* a Site Development permit has been obtained by the applicant, for final inspection of the constructed trail, within the approved limits of disturbance for the water control structure, shown on Exhibit C .3, and as depicted on Figure 5 of the Smith and Bybee Lakes NRMP; or

\* a Minor Amendment of the Smith and Bybee Lakes NRMP, has been approved by OPDR LUR at the request of the applicant, demonstrating a revised alignment of the trail, but maintaining 40-mile loop trail connectivity as required by the NRMP. This plan amendment shall have been accompanied by a proposal to construct the trail within the proposed new alignment, by a specified date; or

\* a legislative process has been completed by the applicant, eliminating the trail designation in the area of the water control structure, from the Smith and Bybee Lakes NRMP.

> Insert from above

a condition with these options should allow the latitude needed by Metro to work out the IGA with Parks, and then act upon it in whatever form it takes.

Please forward this information to Pete Sandrock for his use.

Please let me know if you need anything further to facilitate resolution of this issue with Metro and Parks.

Thank you,

Stacey

<<120 Day waiver.doc>>

CC: "Brooks, Tommy" <tbrooks@ci.portland.or.us>, "Sjulin, Jim" <PKJIMS@ci.portland.or.us>