

**Smith & Bybee Lakes Natural Area
Management Committee**
Nancy Hendrickson, Chair

Metro

600 NE Grand Ave.
Portland, OR 97232
(503) 797-1850

Dec. 3, 1997

Rollie Montagne
Brian Campbell
Port of Portland
Box 3529
Portland, OR 97208

Dear Mr. Montagne and Mr. Campbell:

The Smith and Bybee Lakes Management Co. is concerned about the lack of progress by the Port of Portland on implementing and revising the Rivergate Agreement. The management committee would like information from the Port on timelines, budgets, and responsible parties for completing the projects in the agreement. The committee also requests a timeline be developed for revising the Rivergate Agreement that includes removal or modification of the water control structure, returning the lakes area to tidal freshwater marsh.

As the committee that directs the management of the lakes and oversees the implementation of the natural resource management plan, we are concerned that habitat restoration and creation agreed to by all signatory agencies in the Rivergate Agreement are not being completed in a timely manner. Although the Port completed the Rivergate wetland fills in 1994, the habitat improvements in the agreement have not been achieved.

The management committee meets again on Jan. 13, 1998 from 5:30-7:00 p.m. and starting in February the fourth Tuesday of the month at Metro Regional Center. Presently Susan Oman is the Port's representative on the committee. If you, Susan or someone else from the Port would like to make a presentation on the Rivergate Agreement implementation schedule, please contact Emily Roth at 797-1515. The committee requests a written response to our concerns by the January 13, 1998 meeting.

Sincerely,

Nancy Hendrickson
Chair
Smith and Bybee Lakes Management Co.

c: Jennifer Thompson, U.S. Fish and Wildlife Service
Dave Lohman, Port of Portland
Jerry Hedrick, ODSL
Judy Linton, Corps of Engineers
Ralph Rogers, EPA
Holly Micheal, ODFW
Smith and Bybee Lakes Management Co.



Port of Portland

Box 3529, Portland, Oregon 97208
503/231-5000

Dec. 31, 1997

Nancy Henderson, Chair
Smith and Bybee Lakes Management Committee
Metro
600 NE Grand Ave.
Portland, Or 97232

Dear Ms. Henderson,

Your letter of December 3, 1997 asks that we respond to your concerns about the implementation of, and revisions to, the Rivergate Fill Agreement, both in writing and at the January committee meeting. We will be glad to do both.

This letter and the accompanying material, previously sent to the other signatory agencies, should provide a starting point for the presentation I will make at your January 13 meeting. We have asked the other agencies to review and comment on proposed new wording for the agreement. We also provided them with a summary assessing the implementation of existing provisions of the agreement. (Only part of this document is relevant to the Smith and Bybee area.)

The Port has recently retained the services of Paul Fishman to help us pull together more complete documentation on the performance of "mitigation" projects already completed, and to assist all of the signatory agencies in reaching closure under the existing terms of the agreement. A draft of this work, referred to in the proposed revision language as Attachment E, will be presented to the committee on the 13th. This should take a similar form to the USF&WS matrix produced by Jennifer Thompson, corrected to reflect the terms of the original agreement.

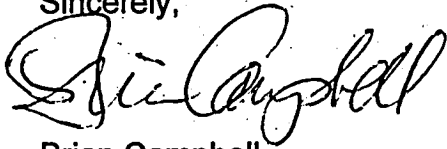
Let me make it clear once again, as I have at previous management committee meetings in years past, that all of us (Port staff included) have had a great deal of frustration at the lack of closure on this agreement. While the Port takes responsibility for not adequately finishing some projects, other agencies also have some responsibility for the situation as it has unfolded over the years. The five state and federal signatory agencies have been, up until just recently, unable to agree on the final "mitigation" project. Metro also has some responsibility for this situation, since they decided in 1991 that the original projects were not appropriate and, until recently, also had not finished their own lake management

plan to give guidance to the agencies in determining the final project that would be most beneficial.

Now that the Port has formed an internal group with a budget to better construct and monitor mitigation projects, our ability to respond to the concerns articulated in your letter should be much improved. I hope that the other agencies are similarly prepared to move ahead with reasonable implementation measures and revisions to the agreement.

I hope this letter addresses your concerns. I look forward to a good discussion of these issues on the 13th.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Campbell". The signature is written in a cursive, flowing style.

Brian Campbell
Planning Manager

- c. Rollie Montagne
- Dave Lohman
- Marilyn Leitz
- Susan Oman
- Emily Roth
- Jerry Hedrick
- Judy Linton
- Ralph Rogers
- Holly Michael
- Ron Garst
- Jennifer Thompson
- Smith & Bybee Lakes M:C.

RIVERGATE FILL MITIGATION AGREEMENT

PORT PROPOSED REVISIONS - NOVEMBER 5, 1997

Section IV.8 Change to read:

"In 1992 the Port re-constructed the water control structure for the lakes. This project was agreed to in 1991 by the other five signatory agencies as the replacement for the original section IV.8 of this mitigation program, in anticipation of the revision of this agreement to change both this section and section IV.9. The project was also reviewed and approved by both the Smith and Bybee Lakes Technical Advisory and Management Committees."

Section IV.9 Change to read:

"The Port will construct a new water control facility that will allow unrestricted flow between the lakes and the Columbia Slough, while maintaining the ability to retain water in the lakes to elevation +12 m.s.l. This new facility will be either:

1. a flashboard dam structure, with a single opening approximately 25' wide by 10' high which includes a bridge spanning the 25 foot opening (sized to be able to place and remove the flashboards) and accompanying abutment structures (see Attachment D for the concept design for this facility); or
2. an equivalent structure that would allow passage of the same volume of water out of the lakes."

"As part of this project the Port will also provide the capability to pump water from the slough into the lakes. The Port, at its option, may either: 1.) provide a permanent pump and power source, or 2.) enter into a binding agreement to provide pumping capacity whenever the Smith and Bybee Lakes Technical Advisory and Management Committees determine it is needed. In either case the pumping capacity shall be no greater than 32 c.f.s., and the Smith and Bybee Resource Manager shall be responsible for operation of the pump."

"The Resource Manager shall be responsible for the acquisition of all permits or other authorizing actions to enable the construction of this water control structure and the operation of the structure and the pump. The Resource Manager shall also be responsible for any additional measures associated with or required by this construction or pumping activity."

Section V.1 Change to read:

"The two water level control structures (IV.8 and 9) have been designed using the modeling and analysis (IV.7) of the projected flow patterns of the Columbia Slough/Bybee Lake/Smith Lake system, although with different objectives for each structure. Construction of the first structure (IV.8) was completed in 1992 and fulfills the Port's obligation for that section of the mitigation agreement. Construction of the second control structure (IV.9) will begin, assuming permit approval, by late summer 1998. The structure will be operational, barring unforeseen problems, by December 31, 1998, and fulfills the Port's obligation for that section (IV.9) of the agreement.

Section V.2. Change to read:

"The new fill boundaries have been established on the ground by the fill projects that have occurred since this agreement was originally signed. The toe of the fill slope is in most instances the development/fill boundary."

Section V.3. Change to read:

"Projects IV.3 & 4 were completed in 1989. However, some elements of these projects were not acceptable to the other signatory agencies, and the Port is in the process of addressing these (see Section VI. 7)."

Section V. 4. Change to read:

"Project IV. 6 was completed in conjunction with the final North Rivergate fill project in 1993."

Section VI. 5. Change to read:

"Metro has been designated as the Smith and Bybee Lakes Resource Manager, responsible for the area defined by the Smith and Bybee Lakes Management Plan. The Smith and Bybee Lakes Management Committee, advised by the Technical Advisory Committee, determines the policy direction for this resource area."

Section VI. 7. Change to read:

"The mitigation projects referred to in Sections IV. 2,3,4,5,6, and 8 have been constructed. Additional improvements in these project areas to

meet the requirements of the monitoring group have been identified. The specific improvements and the schedule for their completion are included as Attachment E. After all of the improvements referred to in this agreement have been completed and approved in writing by the members of the monitoring group, there will be no further modifications or actions required of the Port. This written approval shall not be unreasonably withheld by members of the monitoring group, and the provisions of this agreement shall be separately considered from any other Port permit or agreement. "

SUMMARY OF AGENCY TOUR OF PORT MITIGATION AREAS AND RAMSEY LAKE PONDS - SEPTEMBER 10, 1997

The Port conducts a tour of its major mitigation sites and the Ramsey lake ponds with state and federal environmental agencies once per year. The field tour is normally held in late summer or early fall. This years field trip began with a general briefing at the Port of Portland. The focus topic of the briefing was the newly formed mitigation area management program headed by Scott Carter. The new program is housed in the properties management division of the Port and is supervised by Marilyn Leitz - Properties Manager. The new unit will be responsible for managing all mitigation areas and Ramsey Lake ponds until permit requirements and special agreement requirements are met. They are currently finalizing formal management plans, budget and action plans for each mitigation site and Ramsey Lake ponds.

Southwest Quadrant Mitigation - Buffalo Site (see attached summary of requirements)

- 1996 notes: *looks OK from upland tree planting standpoint but needs noxious weed control (black berry, teasel and Canadian thistle)* - 1997 update: Continues to need noxious weed control. **In management area mgt. plan and budget for 1998.**
- 1996 notes: *areas need to be cleared around plantings to help release them from weeds* - 1997 update: existing plantings have been identified and flagged. Most plantings outside meadow area are surviving better than thought in 1996. **Meadow area will be reestablished in spring of 1998.**
- 1996 notes: *need to replace dead plants; elderberry in particular seem to have a high mortality* - 1997 update: 1997 surveys showed a better survival of plants in fenced area than thought current survival is within acceptable limits based upon percentages established in the T-5 permit standards. **Elderberry will be rechecked to see if it suffered a disproportionate mortality**
- 1996 notes: *agencies need planting list and map of area* - 1997 update: As a part of the 1997 mitigation project review process the maps of all the areas are being updated to include transact routes and all final planting and agreement requirements and should be completed for inclusion in the November 1997 annual mitigation area report. Agencies currently have maps of the areas but they do not include modifications to the original permits. **The mitigation area management document which includes management strategies, budget and final maps is to be completed for submission with the November 1997 annual report.**
- 1996 notes: *there needs to be a written management scheme including vegetative control strategy for the area* - 1997 update: Vegetative management plans were developed for each mitigation area and the Ramsey Lake ponds as a part of the 1997 effort to establish a formal mitigation area management program for the Port. **The vegetative management plans will be a part of the 1997 annual report submittal.**
- 1996 notes: *current cattle grazing activities have interfered with MHCC students ability to record data points and have destroyed certain photo points. The grazing use needs to be reviewed and better managed or eliminated* - 1997 notes: The 7

acres of fenced meadow being grazed continues as a problem. Current plans are to reduce the livestock to 2 cows and 2 calves (no horses). The cattle will be removed in the spring and the area drill seeded to the original meadow grass mix specified in the permit. Light grazing (2 cows and 2 calves) will be used as a management tool to maintain the meadow environment. **The meadow environment will need to be maintained either by grazing or mowing and grass removal (Burning is not an option at this location) Our choice at this point is to use light grazing as the preferred tool to maintain the meadow environment. Agencies requested that original permit documents be researched to document "purpose" of the area.**

- 1996 notes: *Port needs to establish better and more permanent photo marker points for MHCC students doing field surveys* - 1997 update: Port as a part of the 1997 mitigation management program development monumented all photo points and recorded these locations on the new base maps so they could be reestablished if necessary. **MHCC students doing the monitoring were a part of the 1997 mitigation area management program development.**
- 1996 notes: *MHCC students need better field orientation and briefing from Port on what is end result and product expected from their efforts* - 1997 update: MHCC administration met in early 1997 and developed a working agreement specifying training and briefing functions. This agreement has been followed and student survey persons receive briefing/training sessions and port staff visits the mitigation sites with the students at least once per quarter.
- 1996 notes: *general consensus was Port needed to do a better job of management at this site* - 1997 update: Agreed and this was the basis for the 1997 effort to document all permit documents, all current regulatory requirements, develop management plans for each area, update and verify all area survey data and maps and establish a Port management unit with sole responsibility for on ground management of the areas including budget. **Our 1997 objectives to develop a viable management system and upgrade the areas is about 80% complete. Some but not all on ground management actions have begun this fall. Completion of all the mapping upgrades have not been completed to date but are to be completed before the November 1997 annual report.**

Southwest Quadrant Mitigation - Elrod Site

- 1996 notes: *plant health, survival and general condition of this area is far superior to the Buffalo site* - 1997 update: Area continues to be healthy. Aggressive blackberry and weed control is necessary in 1998.
- 1996 notes: *area needs some management actions and replanting but looks good* - 1997 update: A draft vegetative management plan, budget and strategy is a part of the new mitigation management groups planning document.
- 1996 notes: *agencies need to have maps, plant list and planting schemes for this area* - 1997 update: Master maps are being finalized. Agencies have copies of old maps with planting schemes on them (see notes from Buffalo above).

- 1996 notes: *A vegetative and mitigation area management strategy needs to be written for this site* - 1997 update: A draft has been completed (see Buffalo discussion)
- 1997 notes: Questions were raised about total size of the area (15 acres ?) and what were the planting requirements along the slough. **The total planted acreage of this area is 10 acres. The planting along the slough is shown on the attached map. The central open field area is currently being grazed but will become a system of settling ponds under DEQ requirements as soon as SW Quadrant develops.**

Southwest Quadrant Mitigation - Government Island

- 1996 notes: *level in Lake estimated to be 13 feet MSL (+/- 6 inches) Note: PSU report states lake level was at 12.6 feet MSL at the end of September 1996.* 1997 update: Lake level continues to be in the 13 to 14 foot range (MSL) in mid September. **PSU's report will provide lake levels through October 1997 and will add information on transpoevaporation rates for 1997 as well.**
- 1996 notes: *fence needs repair - cows have been grazing in the non grazing portion of the mitigation area. This needs to be corrected immediately. (NOTE: All cows were removed and excluded from the mitigation area September 20.)* 1997 update: In the fall of 1996 the area fence was repaired and a new fence built along the river front to make a completely enclosed mitigation area. Floods and storms of 1996/97 destroyed a part of the fence. The fence was rebuilt in 1997 and final repairs completed in September 1997. All cows have been removed from the island for this year as of October 25, 1997. **Agriculture practices are a part of the Government Is. management plan. Cows are currently excluded from the mitigation area with an option to use them as a management tool to produce "green feed" for water fowl on the south upland portion of the mitigation area.**
- 1996 notes: *Agencies need maps of area which include original mitigation strategy and elevations.* - 1997 update: Agencies have received copies of the map of the area including planting strategy. In addition agencies have copies of the original mitigation plan provided as a part of the HEP process and original permit. Major hydrological shifts in the past 3 years have created a different set of conditions. PSU has documented these changes and this will be a part of their 1997 November report.
- 1996 notes: *what is the elevation of the wetland margin; 13 feet ? 14 feet? This needs to be field checked and established as a reference point.* - 1997 update: The shift in the hydrologic cycle coupled with the effectiveness of the water control structure has made shifts in the wetland margin. PSU has documented the current boundary and this will be a part of their November 1997 report. **We know the wetland boundaries have shifted from the original surveys. Exactly what this mean in terms of total wetland area and the potential planting plan will not be known until we receive PSU's report for this year. We do know the original planting strategy will not be successful given the altered hydrologic pattern and the effect of the water control structure on static water levels.**
- 1996 notes: *agencies need to know where all reports and data on the area are located and how to access data and report analysis.* - 1997 update: Agencies receive an

annual report and all other data resides at the Port of Portland Environmental Services Division or the new mitigation area management group in the Property & Development Services Division. **Historical and regulatory documentation is stored at the Environmental Services Division - Dana Seigfried or Rollie Montagne.**

- 1996 notes: *what added data if any is need before wetland mitigation planting begins?* - 1997 update: Final wetland boundary and transpoevaporation findings. Both have been completed in 1997. This will provide the basis for adjustment of the original planting proposal and adjustment of the original HEP to insure values lost and replaced are balanced. **The Port will be making a first cut at this problem and proposed planting scheme in late November/December 1997 after we have received PSU's report in November 1997.**
- 1996 notes: *Meeting in October/November is needed to discuss options.* - 1997 update: Meetings on Ramsey Lake and Government Island were held in November 1996 and early 1997. Major flooding and dike damage again shifted the character of the area. The Port opted to get this years revised wetland boundaries and the transpoevaporative data before proposing a wetland planting scheme for spring 1998.
- 1997 notes: High water destroyed the downstream dike. This structure is being repaired in early November 1997. Woody debris in the form of large root wads (30 plus) were pulled to the center and north margin of Jewitt Lake as per permit requirements. High water removed all but 5 or 6 of these trees/root wads. High water also introduced carp into the system; given the continued high water levels of East pond and Jewitt lake it is likely carp will persist in the system.
- 1997 notes: Cattle numbers on the Island for 1997 were 424. Depending on the high water cycle the normal period of grazing is April through October. This year the grazing period was greatly reduced because of high water. All cattle were removed from the Island, for this year, on October, 25 1997

Terminal 5 and Rail Crossing Mitigation

1996 notes: *This is the newest of the sites and is currently under construction. Tim Van Wormer conducted the field tour and described the 1996/97 development and planting schedule. The site has the most detailed mitigation and monitoring plan of all Port mitigation sites. The area is being monitored under contract with Fishman Environmental Services.* - 1997 update: A request was made for site maps, verification that the development conformed to permit requirements and the history of the T-5 development compared to the mitigation site development. **This information will be a part of the November 1997 report submitted to the US Army Corps of Engineers and Oregon State Division of State Lands.**

Ramsey Lake Ponds

- 1996 notes: *north 2 ponds and islands look good but south pond islands need work; vegetative management at a minimum.* - 1997 update: Work has begun on removal of the non-native vegetation on the islands and planting with species as prescribed in

the original plan. A program of follow through and care for 1998 is a part of this process and will be reviewed through the mitigation management group.

- 1996 notes: *question were raised about current height of south islands and whether they need to be lowered to two to three feet above mean water level of ponds. (Needs discussion no consensus on this point)* - 1997 update: The island height issue and other strategies continued to cloud and delay the process of reaching agreement and movement forward to final signature on the interagency agreement. The Port has reviewed the maps in the agreement and finds that they show the islands approximately 4 to 5 feet above the upper limits of the wetland area. Bank slopes and typical cross sections are roughly equivalent to what exists on the ground at this time. We are deeply concerned that the existing habitats on the island and adjacent shore will suffer major disruption if the islands are physically lowered. Plus there would inevitably a serious water quality impact. The major impact would be to existing wildlife species at these sites. All islands both north and south are approximately the same height. We are moving forward to remove non-native vegetation on the islands and restore the original vegetative plantings on the island but have no plans to reduce the island heights. **Work has begun on removal of non-native vegetation - planting will occur in November of 1997 after removal of the non native vegetation**
- 1996 notes: *needs vegetative management plan for entire area* - 1997 update: There have been various new concepts and ideas proposed for vegetative management and expansion plans for the Ramsey Lake pond. The Ramsey Lake pond is a perched water feature which lies 8 feet above the slough level at low water (see ortho map). The original concept for the pond was as a stable freshwater marsh habitat and the planting scheme and design was developed accordingly. Since that time a stable wetland environment has developed with the normal populations of wildlife, including turtles and other wildlife forms dependent on this habitat/wetland type. The Port has reviewed the original planting scheme and philosophy and can find nothing technically in error with either the design or intent of the plan. We cannot accept the proposition that a major destruction of the existing habitat by major readjustment of the pond or islands is biologically valid or superior to the original design. As mentioned above, the Port is proceeding to remove non-native vegetation from the islands and will replant vegetation in 1997 in accordance with the original design.
- 1996 notes: *current wetland to upland ratio is good; does not need additional wetlands* - 1997 update: This conclusion was in error and concerns have been raised about the amount of water surface area in the Ramsay pond. The mitigation agreement indicates 16 acres will be recreated. The water surface area is short by approximately 4.5 to 5 acres. Additional water surface area will be created in 1998, following approval by the signatory agencies of a proposal which will be submitted to them in late November 1997.
- 1997 notes: Concern was expressed that the fill slopes in some areas are greater than 1:3. The Port has just reconfigured the slope of the bank back to 1:3, for approximately 100 yards that were in excess of 1:3, as required by the agreement.

- **Long term issue:** The Port has been reminded over the years that part of the area on the north side of the Columbia Slough was filled into the 150 foot buffer in the 1980's. The excess sand fill has been partially removed, with final removal to the level of the original silts scheduled for late November 1997. A conceptual design and proposal for revegetation of this area will be submitted to the signatory agencies for review in late November 1997 along with plans for the Ramsey Lake area.
- **1996 notes:** *upland areas to east need more swales and depressions for plants. Almost complete planting failure in southern portion of upland area. Entire upland area to east needs to be surveyed, evaluated and replanted.* - 1997 update: This will be a part of the proposal to be circulated to the signatory agencies for review in late November 1997.
- **1997 notes:** Purple lustrife is present in the area. The Port has released "bugs" at the T-5 mitigation area but were not able to obtain them for the Ramsey Lake area this year. The normal cycle for this type of treatment, according to Basket Slough research, is for it to take 3 years to effectively control the purple lustrife after the "bugs" have been released. The Port will continue to use hand removal of the plants for the foreseeable future.

General Notes

1996 notes: The results of the September 19 and 25 field tours demonstrate the need for a more structured and focused management of the mitigation areas. Based upon these results the Port has added resources and assigned specific responsibilities to the Environmental Services Department to insure that better management of these areas will occur. These responsibilities will include development of mitigation area management plans in concert with Port property managers, providing better support services to the property managers, mitigation site inspections every 2 months, improved coordination/oversight with all mitigation site monitors (PSU, MHCC and Fishman) and budgets for necessary management actions developed at the beginning of each calendar year. Dana Seigfried will have overall program management responsibilities and Rollie Montagne will provide staff support to Dana. If there are any questions on the mitigation sites please contact either Dana or Rollie.

1997 notes: The 1996/97 effort has resulted in a plan, specific mitigation area management program and assigned responsibilities. Budgets have been assigned to those areas and monitoring oversight has improved. The Buffalo area management has not met our expectation for the meadow area or livestock management. Actions are currently being taken to correct that problem with replanting and refurbishment of the meadow area slated for early 1998. Our understanding for the Ramsey Lake ponds was that this areas was not in controversy as to design or intended purpose; with the exception of the island height issue. Agencies were divided on this point. The 1997 meeting resulted in greater division not consensus. The Port is proposing a new approach to move forward on this project and will be submitting our proposal for signatory agency review in November.

If you have questions please contact Rollie Montagne (731-7518) or Scott Carter (731-7510). Thanks for your participation and input to the management process.

MITTR97.DOC

1997 Mitigation/Wetland Area Tour 9/10/97

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