FACT SHEET: US 95 realignment, Thorn Creek Rd.-Moscow; PN NWW-2004-0600046-B02
June 5, 2017

Issue: On May 17, 2017, the Walla Walla District Corps of Engineers issued a public notice for a permit application by Idaho Transportation Department (ITD) to locate a new alignment of the existing US 95, between Thorn Creek Road and the South Fork Palouse River Bridge in Latah County, Idaho. The stated purpose of the proposed project is to improve safety and increase capacity on the approximately 6.34-mile stretch of US -95. The project was the subject of an EIS by the Idaho Transportation Department (ITD) and FHWA, which completed a ROD in March, 2016. The proposed project is also currently the subject of litigation with the Paradise Ridge Defense Coalition. Region 10 has previously commented that the proposed project is not the LEDPA from among alternatives identified in the FEIS, and will result in both unnecessary losses of wetlands from the landscape as well as result in secondary degradation of significantly rarer remnant Palouse prairie habitat than either of the other two practicable alternatives.

Background: In 1999, FHWA and ITD began developing an Environmental Assessment (EA) for a 20.4-mile improvement of US-95 from the Top of Lewiston Hill to Moscow. The project intent was to widen the existing highway in the southern 15.8 miles of the project and to construct 4.6 miles of a new four-lane highway in the northern section. The preferred alternative which was selected would have created 4.6 miles of new 4-lane highway near the base of Paradise Ridge, an area of importance for wildlife and containing both remnant Palouse prairie habitat as well as rare species. A FONSI was prepared in 2002 by FHWA and ITD; in 2003, the Paradise Ridge Defense Coalition litigated that decision. The US District Court for the District of Idaho decided that the EA and issuance of a FONSI were not appropriate, and found that an EIS would be required for the northern 4.6-mile segment between Reisenauer Hill and Moscow to allow full consideration of the impacts by the public and agencies. The southern 15.8 miles was allowed to proceed and construction was completed in October 2007; the EIS was subsequently prepared by FHWA and ITD for the northern segment.

On September 21, 2015, the EPA commented on the FEIS. The DEIS had been rated as EO-2, owing to serious concerns about Alternative E-2 (the applicant's preferred alternative), based on the potential for significant degradation of aquatic resources, and potential degradation or losses of rare and remnant Palouse prairie habitat and species. In our comments, we identified that these impacts could be avoided by project modification or selection of another alternative. The stated purpose of the proposed project is improved safety; however, all alternatives brought forward in the FEIS are in accordance with AASHTO standards and the USACE project manager stated on in 2013 that "the Corps is of the opinion that any alternative (but for no action) meets [the project] purpose and need. One of those alternatives, alternative C-3, would result in the loss of 0.99 acres of wetlands and would have 5 tributary crossings with 7,808 linear feet of channel effects. The proposed project, based on the PN and ROD alternative E-2, would cause the permanent loss of 3.62 acres of wetlands, which have a higher functional value than alternative C-3, would have 5 tributary crossings and would pipe 4,290 linear feet of channel (2,592 linear feet identified in the ROD). In addition, the C-3 alternative would have no impact to ungulate (i.e., big game) habitat, and is within 1 km of 14 Palouse prairie remnants; the proposed project would impact 0.44 acre of ungulate habitat and is within 1 km of 24 Palouse prairie remnants. The proximity of the roadway to the remnant prairie has the potential to cause secondary degradation to the prairie via hydrologic changes and the introduction of weed species from the roadway. The wetlands that are affected drain into either the South Fork of the Palouse River or Thorn

Creek, both of which are on the 303(d) list and are waters of the US, and could cause or contribute to further degradation of these waters.

On March 21, 2016, the ROD was published. On August 18, 2016, the Paradise Ridge Defense Coalition (PRDC, paradise-ridge-defense.org) filed a legal complaint against the ITD and FHWA in US District Court for Idaho, Central Division, challenging the Environmental Impact Statement and Record of Decision.

Environmental Concerns: Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 The information in the ROD shows that all three alternatives meet project need to increase highway safety and capacity, and all appear to be practicable. The higher level of aquatic resource impacts from the proposed project, when there are two other practicable alternatives with less impact, does not meet the requirements of 40 CFR 230.10(a). Our review indicates that alternative C-3 appears to be the LEDPA, and that there are no other adverse environmental effects which would preclude this designation. Most of the historic wetland resources have been converted to farm land, with extensive changes in the stream drainages. The Deliberative Process / Ex. 5 losses of headwater wetlands and higher value wetlands under the proposed alternative compared to the other alternatives, would be in a landscape in which such resources are rare and thus proportionately more important in a landscape context. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 The compensatory mitigation proposed, viz., credit purchase from the Cow Creek mitigation bank, which is outside the watershed. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

The choice of the preferred alternative would also de-prioritize Palouse prairie restoration sites near the E-2 alignment.

Current Status: Comments on the Public Notice are due by June 16, 2017. It is not entirely clear why the Corps is supporting the E-2 alternative as this project is already under litigation and Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 The EPA is drafting a response to the Corps public notice.

Public/ Agency Position/Involvement: The EPA received an email on May 26, 2017 from David Hall, President of the Palouse Prairie Foundation, inquiring into whether EPA will request a hearing or submit comments on this public notice. On June 1, 2017 the Idaho Department of Fish and Game stated that they support the C-3 alignment for the following reasons: 1) it has the least wetland and wildlife impacts, and 2) it is the alternative supported by all the resource agencies.

Recommended Action: Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

We recommend that Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 and recommending Deliberative Process / Ex. 5 with signature by the Office Director before the deadline on June 16th, 2016. Routing recommended June 9-16.

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