Chapter 5. Public and Agency Involvement

This chapter describes the public and agency involvement process used for this Tier 2 EIS (including the DEIS and FEIS). ODOT used this process to educate the public and stakeholders about the project and to give them opportunities to provide input on the project.

This chapter also includes a summary of the Section 6002 Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) activities for the project. SAFETEA-LU is the current federal transportation funding bill that authorizes the federal surface transportation programs for highways and transit. Section 6002 of SAFETEA-LU requires that federal, state, and local agencies that have jurisdiction by law or a special interest in a project have the chance to formally participate in the project’s environmental review process. A SAFETEA-LU 6002 checklist is at the end of this chapter in Section 5.9.

5.1 APPROACH

The project’s public and agency involvement program plays an important part in the development of the Preferred Alternative. ODOT uses a variety of ways to inform the public and private stakeholders about the project and to receive their input. Public and agency involvement helps to find a solution that best meets the project Purpose and Need, minimizes impacts, and enhances community livability.

ODOT started the Tier 2 public and agency involvement activities in September 2005 and is continuing them through this Tier 2 FEIS. The following list summarizes the Tier 2 public and agency involvement activities from September 2005 through October 2011. The remaining sections of this chapter discuss these activities in more detail.
September 2005
- Newsletter #1.
- Project Oversight and Steering Team (POST) meeting to kick off this Tier 2 process.

October 2005
- EIS Notice of Intent (NOI).
- Press release advertising the open house.
- Open house for proposed project.
- Newberg Community Night.

November 2005
- Press release announcing the December Context Sensitive and Sustainable Solutions (CS³) workshop.
- Collaborative Environmental and Transportation Agreement for Streamlining (CETAS) briefing and discussion on the proposed project Purpose and Need.

December 2005
- CS³ workshop and open house to develop design concepts for the Bypass segments.
- CETAS briefing and discussion on the proposed project Purpose and Need.

January 2006
- CETAS concurrence on the proposed.
- Project Purpose and Need.

February 2006
- Press release announcing the beginning of the Tier 2 DEIS field studies.
- POST meeting to discuss the second draft of the Purpose and Need, public-private partnerships, interchange area management plans (IAMPs), and other planning studies.

March 2006
- Press release announcing IAMP public forums.
- Environmental justice (EJ) outreach interviews with city staff, public service providers, and school districts.
- Newsletter #2.
- East Dundee IAMP Stakeholder Working Groups (SWGs) #1 and #2.
- East Dundee Local Access Forums (LAFs) #1 and #2.
- East Newberg and Oregon 219 SWGs #1 and #2.
- East Newberg LAFs #1 and #2.
- Oregon 219 LAFs #1 and #2.
- Dayton SWGs #1 and #2.
- Dayton LAFs #1 and #2.
April 2006
- Press release announcing IAMP public forums.
- CETAS briefing on the Oregon Innovative Partnership Program (OIPP).
- Information booth at Newberg Thriftway with Spanish interpreter.
- East Dundee SWGs #3 and #4.
- East Dundee LAF #3.
- East Newberg and Oregon 219 SWGs #3 and #4.
- East Newberg LAF #3.
- Oregon 219 LAF #3.
- Dayton SWGs #3 and #4.
- Dayton LAF #3.

May 2006
- POST meeting to discuss public-private partnerships, tolling, purpose and content of the Design Evaluation Framework, IAMPs, other planning studies, and the upcoming CS³ workshop.
- Newsletter #3.
- Press release announcing the public CS³ workshop and open house.
- CS³ workshop and open house to further define the Bypass segments.
- Press release announcing June 2006 roadside survey.
- CETAS briefing and discussion on the proposed project range of alternatives.
- Public service announcements on Spanish-language radio stations.

June 2006
- Newsletter #4.
- CETAS update on the proposed project impact analysis methods and range of alternatives.

July 2006
- POST meeting to discuss the June 2006 roadside survey, draft design options, and public involvement.

August 2006
- POST meeting to discuss revisions to design options and the potential location of tolling terminals.
- POST recommendation on the design options to be carried forward into this Tier 2 DEIS.
- Agency scoping field trip.

September 2006
- CETAS briefing with formal presentation on range of alternatives.

October 2006
- Newsletter #5.
- CETAS briefing on evaluation/selection criteria.
- CETAS concurrence on range of alternatives.
- Agency scoping field trip.
- Newberg Community Night.
November 2006
- CETAS concurrence on Evaluation/Selection Criteria.

December 2006
- Press release announcing CS<sup>3</sup> workshop and open house.
- CS<sup>3</sup> workshop and open house to further define the design options—Rex Hill Winery to Garland Road—and inform potentially impacted parties not previously involved in the project.

February 2007
- POST meeting on proposed project status and IAMPs.
- Newsletter #6.
- Project briefing to Newberg Planning Commission/City Council and Dundee Planning Commission/City Council.

March 2007
- Project briefing to Yamhill County Planning Commission, Dayton City Council/Planning Commission, and McMinnville Realtor Association.

June 2007
- Began occupant survey to gather information from all potential displacements.

July 2007
- Springbrook Estates neighborhood meeting to brief residents on proposed project and on area impacts to Springbrook residents.
- Press release announcing ODOT and Oregon Transportation Improvement Group (OTIG) agreement to cease pursuing public-private partnership.

August 2007
- CETAS meeting on the proposed project and Bypass tolling status.
- Project redefinition workshop with elected officials to discuss cost deferral and cost reduction measures for the proposed project.

September 2007
- Value Engineering Workshop.

October 2007
- Second and third project redefinition workshops with elected officials to discuss cost deferral and cost reduction measures for the proposed project.

November 2007
- Project briefing to Dundee City Council.

January 2008
- Project briefing to Newberg City Council.

May 2008
- Project briefing to the Mid-Willamette Valley Area Commission on Transportation (MWACT).

September 2008
- Project status update briefing to CETAS.
- Project status update postcards sent to interested parties list (about 2,500).
October 2008 – November 2008
- Meetings with Yamhill County, Dayton, Dundee and Newberg Planning Departments to discuss expiration of Intergovernmental Agreements (IGAs).

November 2008
- Project status report sent to POST.

March 2009
- Project status update to Dayton, Dundee, and Newberg City Councils and to Yamhill County Commissioners.

July 2009
- Sent copies of the pre-publication Tier 2 DEIS to Cooperating Agencies Federal Aviation Administration (FAA), U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), and NOAA National Marine Fisheries Service (NMFS) for their review and comment.

November 2009
- Project status update to Dayton, Dundee, and Newberg City Councils and to Yamhill County Commissioners.
- ODOT and FHWA met with project area city mayors, Yamhill County Commissioner, and several legislators to discuss the project.

June 2010
- Tier 2 DEIS published in the Federal Register.

June 4 – July 19, 2010
- Tier 2 DEIS public and agency comment period.

June 2010
- Tier 2 DEIS public hearing, Newberg.

July 2010
- CETAS Briefing on the Preferred Alternative.

August 2010
- Tier 2 Preferred Alternative presented to CETAS for concurrence.

September 2010
- Project newsletter describing the Tier 2 Preferred Alternative.

April 2011
- CETAS concurrence of the Tier 2 Preferred Alternative.

September 2011
- Project newsletter identifying Phase 1 of the Preferred Alternative (Phase 1).
- Open houses (2) for public review and comment on Phase 1.

October 2011
- CETAS briefing on Phase 1 and mitigation.
5.2 NEPA SCOPING

The National Environmental Policy Act (NEPA) requires an early and open process to decide the issues that the Tier 2 DEIS addressed and to identify how much environmental analysis ODOT will complete. This process is called **scoping**. During scoping, ODOT and FHWA asked for and received input from the public, interested agencies, and tribes.

ODOT started the scoping process for the Tier 2 DEIS in October 2005 when FHWA published the NOI to prepare an EIS in the Federal Register. During scoping, ODOT provided a number of opportunities for public and agency involvement including the following:

- ODOT held a public and agency open house on October 11, 2005, at the Newberg High School Auditorium, 2400 Douglas Avenue, Newberg, Oregon. Public notices in local newspapers and on the project Web site announced the start of scoping and the open house. The open house presented information on a variety of project topics, including:
  - Designing a project with community input.
  - Bypass concept designs.
  - NEPA (including draft Purpose and Need).
  - How to become involved in the proposed project.
  - The Oregon Innovative Partnership Program (OIPP).
  - Special studies and IAMPs.

- ODOT distributed comment forms at the open house to receive public and agency comments on the draft project Purpose and Need, issues and areas of concern, conceptual Bypass designs, and the proposed project in general. A Spanish translator provided assistance during the open house.

- ODOT conducted two field trips to the project area for interested agencies on August 29 and October 13, 2006. These trips provided proposed project information and gave the agencies an opportunity to talk about issues and concerns with ODOT and project staff. Invited agencies included ODOT, FHWA, Oregon Department of Environmental Quality (DEQ), Oregon Department of State Lands (DSL), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Land Conservation and Development (DLCD), U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and U.S. Army Corps of Engineers (USACE). Staff from USFWS, NMFS, USACE, FHWA, ODOT, DSL and DEQ attended one or both of the field trips.

- ODOT held three CS³ activities in Newberg: on December 6 and May 23, 2006, at the Newberg Christian Church, 2315 Villa Road, Newberg, Oregon; and on December 7, 2006, at the Newberg High School Commons, 2400 Douglas Avenue, Newberg, Oregon. The December 6 and May 23 activities included afternoon stakeholder workshops for invited participants and an evening open house for the public. The
December 7 activity was an evening open house only. ODOT invited participants at the workshops and open houses to provide comments and raise issues and concerns on the design options presented at these activities. Project staff recorded comments on maps, drawings, and comment forms.

- ODOT held IAMP, SWG and LAF meetings in Newberg, Dundee, and Dayton during 2006. At these meetings, stakeholders raised issues and provided input on the proposed interchange designs.
- ODOT identified Participating and Cooperating Agencies, as defined by SAFETEA-LU.
- ODOT conducted an EJ outreach program to ensure full and fair participation in the project decision-making process by all potentially affected minority and low-income communities.
- ODOT launched the project Web site, http://www.NewbergDundee.org, to provide information on the proposed project and the Tier 2 DEIS process, and an opportunity to comment online.

The public and agency involvement activities listed above resulted in the development of the Tier 2 DEIS Build Alternative that reflects the values, concerns, and priorities of both public and private stakeholders. The Tier 2 DEIS Build Alternative included the following items because of these activities.

- Bridge structures over the majority of stream crossings are designed to limit wetland, riparian, and habitat impacts, and to provide wildlife crossings.
- In East Newberg (Oregon 219 to Oregon 99W), the Bypass is located as far to the east as possible to minimize residential and hospital impacts while preserving the golf course.
- In Newberg (near SP Newsprint), the Bypass is located as far south as possible to avoid 11th Street and housing property and to avoid interfering with SP Newsprint operations.
- Design options with berms reduce visual and noise impacts in Dundee.
- The interchange in Dayton is smaller, reduces impacts, and provides better connections for local roadways serving adjacent land uses.

5.3 COMPLIANCE WITH SAFETEA-LU SECTION 6002

Starting in August of 2005, SAFETEA-LU governs federal spending on surface transportation. Section 6002 of SAFETEA-LU requires that federal, state, and local agencies that have jurisdiction by law or a special interest in a project have the chance to formally participate in the project’s environmental review process. The Newberg Dundee Bypass SAFETEA-LU Coordination Plan discusses how ODOT and FHWA are conducting SAFETEA-LU compliance for the proposed project, identifies the agencies involved and their roles, and provides a summary of planned and completed activities. ODOT will continue to update the Coordination Plan. This section provides a summary of SAFETEA-LU 6002 activities for the proposed project.

Some of the Lead, Cooperating and Participating Agencies are members of Oregon’s CETAS. CETAS generally meets monthly and serves as a working group of federal and state resource agencies that provide regulatory guidance and concurrence during major transportation project development. CETAS provides concurrence on four project milestones: Purpose and Need, Range of Alternatives, Evaluation Criteria, and the Preferred Alternative. CETAS was involved with the Tier 1 EIS and has continued to be
involved in the Tier 2 EIS process. Through December 2011, ODOT has briefed CETAS on the project numerous times and CETAS had concurred in all of the four milestones for the Tier 2 EISs. This section provides additional detail on ODOT’s project coordination with CETAS and its relationship to the project’s compliance with Section 6002 of SAFETEA-LU.

5.3.1 Lead Agencies

Council on Environmental Quality (CEQ) 40 CFR 1501.5 defines the selection and role of Lead Agencies within NEPA processes. Section 6002 of SAFETEA-LU further defines the identification and role of Lead Agencies for U.S. Department of Transportation (DOT) EISs. DOT (in this case FHWA) must serve as the federal Lead Agency for a transportation project. The direct recipient of federal funds for the project must serve as a joint Lead Agency. Under Section 6002, the Lead Agencies identify and involve Participating Agencies; develop coordination plans; provide opportunities for public and Participating Agency involvement in defining the Purpose and Need and determining the range of alternatives; and collaborate with Participating Agencies in determining methodologies for the analysis of alternatives.

For FHWA-led projects, the state department of transportation is typically the direct recipient of project funds, and therefore must serve as a joint Lead Agency along with FHWA. FHWA is the federal Lead Agency for this project and ODOT is the joint Lead Agency. ODOT sent SAFETEA-LU Section 6002 notification letters to FHWA on August 25, 2006, and August 7, 2008.

5.3.2 Cooperating and Participating Agencies

CEQ 40 CFR 1508.5 defines the selection and role of Cooperating Agencies within NEPA processes. Section 6002 of SAFETEA-LU further defines the selection and roles of Cooperating Agencies. Section 6002 also includes a requirement that projects subject to that section provide opportunities for federal, state, tribal, regional, and local government agencies to participate in the proposed project’s environmental review process. Under Section 6002, Participating Agencies are those with an interest in the project. Cooperating Agencies have a higher degree of authority, responsibility, and involvement in the environmental review process than do Participating Agencies. An additional distinction is that, pursuant to 40 CFR 1506.3, “a cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.”

As the lead federal agency, FHWA invited four federal agencies to be Cooperating Agencies (three agencies accepted that status and one declined). The following summarizes the Cooperating Agency status for the proposed project:

- USACE (accepted invitation)
- FAA (accepted invitation)
- USFWS (accepted invitation)
- NMFS (declined invitation and elected to be a Participating Agency)
FHWA and FAA signed a Memorandum of Understanding (MOU) on May 25, 2007. The MOU outlines the roles of FHWA as the lead agency and FAA as a Cooperating Agency. This MOU is included in the SAFETEA-LU 6002 Coordination Plan, found in Appendix M.

The role of the Cooperating Agencies is to consult with ODOT and FHWA on any relevant technical studies required for the project, conduct joint field reviews, review project information (including study results), and use this Tier 2 FEIS to express agency views on subjects within their jurisdiction or expertise. Cooperating Agencies may also use this NEPA process to support their project decisions. All Cooperating Agencies were provided an opportunity to review and comment at project milestones, including the project Purpose and Need, study methodologies, Section 6002 Coordination Plan, Range of Alternatives, Alternative Evaluation Criteria, Tier 2 DEIS and Preferred Alternative. The Cooperating Agencies will also be provided with a copy of the Tier 2 FEIS.\(^1\)

Participating Agencies that are not Cooperating Agencies are agencies that have an interest in the project and are responsible for early identification of issues of concern regarding the proposed project’s potential impacts. In February, April, and October 2006, Participating Agency invitations were sent to over 30 federal and state agencies and local jurisdictions (cities and counties). The following agencies accepted Participating Agency status:

- City of Dayton
- City of Dundee
- City of Newberg
- City of McMinnville
- Marion County
- NMFS
- DLCD
- EPA\(^2\)

The Participating Agencies that are not Cooperating Agencies were provided an opportunity to review and comment at the same project milestones as the Cooperating Agencies. The Coordination Plan (see Appendix M) and the remainder of this section provide a more detailed description of how Participating Agencies have and will continue to be involved with this project.

### 5.3.3 Public Participation

Starting during the Tier 1 NEPA process and continuing in Tier 2, the public involvement program has been used to educate and involve the public and stakeholders and to give them an opportunity to become active participants in shaping the project. There have been many outreach efforts available for the public to become involved (see Section 5.4 for additional detail). Efforts include open houses and workshops, newsletters, and access to a project Web site. Section 3, Coordination Points and Responsibilities, of the Coordination Plan (Appendix M) and the remainder of this section provide specific information on activities for coordination with the public.

### 5.3.4 Review of Purpose and Need

SAFETEA-LU Section 6002 requires that agencies and the public have an opportunity to comment on a project’s purpose and need. ODOT held an open house/scoping meeting in October 2005 and distributed comment forms for agency and public comment on the proposed project Purpose and Need. ODOT notified the public and all Participating Agencies.

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1 Per 40 CFR 1506.10(b) and 40 CFR 1504.

2 Per Section 6002 of SAFETEA-LU, any federal agency that is invited by the lead agency to participate in the environmental review process shall be designated as a Participating Agency, unless the invited agency declines in writing. Therefore, EPA is also a Participating Agency, because no response was received to the invitation.
Agencies of the meeting and opportunity for review and comment. Many of the project’s Participating Agencies attended the meeting. ODOT also provided an opportunity for agencies to submit comments by mail and email. ODOT received three public comments but no agency comments on the Purpose and Need. In addition, no agencies raised comments or issues at the meeting. The public comments did not specifically address the Purpose and Need.

CETAS discussed the Purpose and Need at their November and December 2005 meetings. They provided final concurrence in January 2006. Several Cooperating and Participating Agencies are also CETAS members.

ODOT also briefed local city, county, and other agencies about the proposed project early in this Tier 2 DEIS process. They discussed the Purpose and Need and requested comments at these meetings. No comments were received.

ODOT sent other Participating Agencies that are not members of CETAS the Purpose and Need statement for review and comment in early 2006. ODOT did not receive comments from any of these agencies.

5.3.5 Review of Range of Alternatives

Another requirement of Section 6002 is to provide the opportunity for agencies and the public to comment on the range of alternatives. During development of the Build Alternative and design and local circulation options, ODOT offered many opportunities for the public and agencies, particularly local jurisdictions, to give input and provide comments. Opportunities included a project open house, CS3 open houses and workshops, newsletters, the project Web site, and community briefings. Input resulted in numerous design option and local circulation option modifications.

ODOT published a Newberg Dundee Bypass Alternatives Screening Report on September 19, 2006, which described the process used to identify, develop, and screen a reasonable Build Alternative and design and local options for further consideration in the Tier 2 DEIS. The report was made available to all Participating Agencies and the public, and it was discussed in a project newsletter and on the project Web site.

ODOT offered site visits to the Participating Agencies and coordinated two field trips to the project area on August 29 and October 13, 2006. The field trips familiarized the agencies with the Build Alternative and design and local circulation options and gave them opportunities to discuss issues and concerns with ODOT and project staff. Staff from USFWS, NMFS, USACE, FHWA, ODOT, DSL, DEQ, and ODFW attended one or both of the field trips.

The CETAS forum provided, for three of the Participating Agencies, an opportunity for additional involvement during alternatives development. Approval of the Range of Alternatives is a CETAS concurrence point. ODOT presented the No Build Alternative, Build Alternative and the design and local circulation options, which were identified in the Alternatives Screening Report, to CETAS and to the Participating Agencies that are not members of CETAS. ODOT did not receive comments from any of these agencies. The CETAS concurrence on the Range of Alternatives took place on October 25, 2006.

5.3.6 Methodologies and Impacts

Section 6002 requires that Participating Agencies and the public comment on the methodologies to be used for impact analysis of the No Build and Build Alternatives. ODOT provided the draft methodology and data reports for each of the Tier 2 DEIS resource areas to the Participating Agencies and to CETAS members in late 2005 and early 2006. Agency feedback included written comments from FAA, DLCD, DSL and DEQ, and oral comments from USFWS and SHPO. No comments refuted proposed methodologies.
Project staff conducted additional followup in January and February 2006 with the USFWS related to a later comment that habitat size is not appropriately addressed in the methodology for habitat quality characterization, and that larger habitats should have higher importance. ODOT reviewed the methodology used and determined that the data used to develop the high, medium and low habitat quality classifications resulted in strictly relative classifications that are reasonable for the purposes of providing a general overview of the habitat present within the area of potential effect. As a result, the outcome was no change to the classification method for habitat quality.

ODOT presented the methodologies to CETAS during its June 2006 meeting. The project team conducted follow-up coordination meetings with USFWS, EPA, NMFS, and DEQ in the fall of 2006 to present and solicit feedback on the habitat assessment approach and to present a suggested approach to cumulative impact assessments for natural resources. ODOT provided FHWA with a summary of agency feedback on the activities and revised cumulative impact methodologies in December 2006.

ODOT also provided Participating Agencies with the opportunity to assist ODOT in identifying resources of concern located within the proposed location of the Build Alternative’s roadway improvements. ODOT invited Participating Agencies to attend field trips in August and October 2006 to provide the agencies with the opportunity to discuss project issues and concerns and to observe and identify any resources of concern.

5.3.7 Coordination Plan

ODOT published a draft Coordination Plan in May 2006 and provided it to the public and to the Participating Agencies for review. The purpose of the Coordination Plan is to facilitate and document the lead agencies’ interaction with the public and other agencies, and to inform the public and other agencies of how the coordination will be accomplished.

ODOT distributed the plan to Participating Agencies and the public in July 2006 and posted it on the project Web site. The plan is continually updated, with the most recent revision being February 2012. Section 5 of the Coordination Plan includes a history of revisions. See Appendix M for the Coordination Plan or the project Web site: http://www.NewbergDundee.org.

5.3.8 Tier 2 DEIS

The Tier 2 DEIS was published in the Federal Register on June 4, 2010. A 45-day agency and public comment period on the Tier 2 DEIS extended from June 4 to July 19, 2010. Notification of the availability was provided to the Participating Agencies and people listed on the project mailing list. Notifications of availability were also published in the Oregonian, Newberg Graphic, Yamhill News Register and El Hispanic News.

Comments were received via mail, email, via the project’s Web site, and at a public hearing on the Tier 2 DEIS on June 29, 2010. Copies of all substantive comments and responses are included in Appendix N.

5.3.9 Identification of the Preferred Alternative

The FEIS identifies the preferred alternative. Project newsletters describing the Tier 2 Preferred Alternative (September 2010) and Phase 1 (September 2011) were distributed to the recipients on the mailing list and Participating Agencies. ODOT provided CETAS with the Preferred Alternative Concurrence Form on August 8, 2010. CETAS concurrence with the Preferred Alternative was completed on April 6, 2011.
5.3.10 Tier 2 FEIS, ROD and Statute of Limitations

This Tier 2 FEIS has been distributed to all Cooperating and Participating Agencies, as well as those that provided comment on the DEIS. The FEIS is available to the public upon request. Copies of the Tier 2 FEIS are available free of charge on disks in either English or Spanish, on the project’s Web page, and at various libraries and community centers in the project vicinity. Notice of the publication of the Tier 2 FEIS was issued in the Oregonian, Newberg Graphic, Yamhill News Register and El Hispanic News.

The Tier 2 FEIS is available for review during the NEPA 30-day waiting period, as per 40 CFR 1506.10(b) and 40 CFR 1504. Upon completion of the waiting period, FHWA will issue a Record of Decision (ROD). As per 40 CFR 6.804, the ROD will list any necessary mitigation measures.

A federal agency may publish a notice in the Federal Register, pursuant to 23 USC §139(l), indicating that one or more federal agencies have taken final action on permits, licenses, or approvals for a transportation project. If such notice is published, claims seeking judicial review of those federal agency actions will be barred unless such claims are filed within 180 days after the date of publication of the notice, or within such shorter time period as is specified in the federal laws pursuant to which judicial review of the federal agency action is allowed. If no notice is published, then the periods of time that otherwise are provided by the federal laws governing such claims will apply.

FHWA intends to publish a 180-day statute of limitations (SOL) in the Federal Register.

5.3.11 Project Schedule

The Coordination Plan includes a project schedule. ODOT keeps the Participating Agencies informed about the schedule, including the earliest anticipated construction time for the proposed project (see Section 4 of the Coordination Plan). The schedule also includes anticipated requirements, such as formal consultation under the Endangered Species Act, compliance with Oregon land use regulations, and other actions ODOT will complete before the ROD.

5.4 PUBLIC INVOLVEMENT

ODOT has conducted a variety of public involvement activities for the Tier 2 DEIS and FEIS, including open houses and workshops, newsletters, and a project Web site. A description of each follows.

5.4.1 Open Houses

ODOT held a project open house on October 11, 2005, in Newberg to introduce the Tier 2 DEIS process. They provided information on the NEPA process, preliminary concept designs, the draft Purpose and Need, and the IAMPs. Additional open houses included the CS³ workshops on December 6, 2005, and May 23 and December 7, 2006. See Section 5.2, NEPA Scoping, for additional information on these open houses.

In October 2005 and October 2006, ODOT presented information on the proposed project at the City of Newberg, “Newberg Community Nights” open houses. Project staff presented a variety of land use and transportation planning and environmental project information.

The project team used the CS³ planning framework to gather stakeholder and public input during development of the Build Alternative. The CS³ process helps to develop a
project of lasting value to the state, region, and communities through collaborative decision making. The CS³ process goal is a project that reflects local community values, meets local community needs, and is safe and consistent with state policy. ODOT extended invitations to the following groups for the CS³ process:

- Federal and state regulatory agencies and the tribes
- State and local elected officials
- State and local government directors and managers
- Citizens and stakeholders

ODOT held the first CS³ workshop in December 2005, which included an afternoon session for stakeholders, including local, state, and federal elected officials and staff, and an evening public open house. At the workshop, the project team:

- Presented a summary of decisions made at CS³ workshops conducted during Tier 1.
- Provided information on NEPA and the Tier 2 DEIS process.
- Invited attendees to review proposed project design options and to provide comments about design preferences and existing conditions.

At the second CS³ workshop in May 2006, ODOT presented revised design options, based on comments from the December 2005 workshop, along with additional technical information on noise and geotechnical conditions, proposed project cost information, and project funding options. Attendees reviewed the updated design options and local circulation options, and provided comments about their design preferences.

In December 2006, ODOT held a third CS³ workshop for residents, businesses, and property owners in the eastern portion of the project area along Oregon 99W from Rex Hill to the end of the project. ODOT did not include this area in Tier 1. As a result, these parties may not have known about the project, as well as the potential impacts to their residences, businesses or property, that are a result of an extension of the project in the Rex Hill area during Tier 2. ODOT presented general project information, as well as information about the Build Alternative and design/local circulation options. Attendees were given an opportunity to provide comments. These individuals were added to the Tier 2 mailing list.

In September 2011, ODOT held two open houses, in Newberg and Dundee, to provide interested parties information on new areas of Phase 1. The open houses also provided opportunities to comment on Phase 1.

A Spanish translator was available at all workshops and open houses to assist attendees if needed.

5.4.2 Interchange Area Management Plan Process

IAMPs protect the function of interchanges by providing direction for development of local land use policies and actions that take place near the interchanges. An IAMP ensures that the land uses near the interchanges develop as stated in city and county comprehensive plans and transportation system plans (TSPs). IAMPs protect agricultural (exclusive farm use [EFU]) land, as required by the goal exception for the project, and provide for safe and efficient operations along the Bypass and on connecting roadways.

ODOT developed IAMPs for the four interchanges during the Tier 2 DEIS process. SWGs and the public LAFs provided input on the interchange designs at meetings from March through August of
2006. These meetings resulted in the selection of interchange designs and local circulation options that were analyzed in the Tier 2 DEIS.

ODOT will continue to pursue, as needed, local land use actions to accommodate changes to local roads and to ensure each interchange functions and operates safely. The land use actions took place after the release of the Tier 2 DEIS. Additional land use actions will take place after the Tier 2 FEIS and ROD. ODOT will finalize and complete Oregon Transportation Commission adoption of the IAMP before construction of any phase.

5.4.3 Project Newsletter

During Tier 1, ODOT developed a project newsletter mailing list that included residents, businesses and property owners in the project area. The current mailing list includes the Tier 1 entries, as well as residents, businesses and property owners now located in the project area that were not included in the Tier 1 mailing list, and those who have requested that ODOT add them to the mailing list. The current mailing list includes over 2,500 entries.

Between September 2005 and February 2007, ODOT sent out six newsletters. The newsletters included up-to-date project information about the Build Alternative and design and local circulation options, new project areas outside of the Tier 1 corridor, the project schedule, and upcoming public events. ODOT mailed Spanish-language newsletters as requested by individuals on the mailing list. In addition, ODOT sent out a project postcard with updated schedule information in September 2008.

During Tier 2, ODOT sent out four newsletters in June and September 2010 and February and September 2011. The newsletters discussed the following topics:

- June 2010 – Announcement of the publication of the Tier 2 DEIS, description of the Build Alternative and information on the Tier 2 DEIS public hearing.
- September 2010 – Description and illustration of the Preferred Alternative, how the Preferred Alternative was identified and next steps.
- September 2011 – Description of Phase 1, announcement about the Phase 1 open houses, update on the land use decisions and an introduction of the Tier 2 FEIS.

5.4.4 Project Web site

ODOT updates the project Web site to address project progress. The site includes online forms for questions or comments, and it provides a way to sign up for the project mailing list. The Web site address is http://www.NewbergDundee.org.

5.4.5 Press Releases

ODOT distributed nine press releases to regional and local newspapers and radio stations between October 2005 and July 2007. The press releases announced public events and meetings and provided proposed project updates. ODOT will distribute additional press releases periodically up through the publication of this Tier 2 FEIS.
5.5 AGENCY INVOLVEMENT

5.5.1 Collaborative Environmental and Transportation Agreement for Streamlining (CETAS)

CETAS is a framework for a working group of federal and state transportation, land use, and natural resource protection agencies. These agencies support environmental stewardship and work to streamline the environmental review process for ODOT’s major transportation projects. ODOT and project staff worked closely with CETAS throughout Tier 1 and continue to do so during Tier 2. CETAS identifies regulatory issues and provides concurrence from member agencies on four project milestones:

- Purpose and Need
- Evaluation Criteria and Measures
- Range of Alternatives
- Preferred Alternative

ODOT met frequently with CETAS during the development of the project, to provide updated project information, and at key concurrence points in the project development process. In addition, individual CETAS representatives visited the project site and consulted with project staff on methodologies and alternative development. The following are key CETAS meetings held to date during Tier 2:

- November 15 and December 13, 2005 – Purpose and Need briefing.
- January 6, 2006 – Purpose and Need Concurrence.
- September 2008 – Informational project status briefing.
- August 17, 2010 – Preferred Alternative Concurrence request.
- October 18, 2011 – Briefing on Phase 1 and discussion on mitigation with the resource agencies.

5.6 ADVISORY COMMITTEES

5.6.1 Project Oversight and Steering Team

The Project Oversight and Steering Team (POST) is an advisory group for the project that started meeting during Tier 1 and continued in Tier 2. The group provides federal, state, local, and regulatory review and feedback. POST makes recommendations on project-related issues and provides information on local issues and concerns, regulatory requirements, and design preferences. Members of POST include elected officials,
5.6.2 Yamhill County Parkway Committee

The Yamhill County Parkway Committee was designated by Yamhill County in 1989 as an advisory group to develop a strategy for establishing a parkway along Oregon 99W and Oregon 18.

This longstanding committee normally meets once a month. ODOT representatives either attend or send input for the meeting from ODOT. This group consists of the Dayton, Dundee, McMinnville, and Newberg mayors, Yamhill County Commissioners, tribal representatives, and various business and civic organizations. Their charter is to:

- Encourage the construction of a Newberg Dundee Bypass.
- Identify actions and policies which can enhance and preserve the Parkway all the way through the county.
- Identify improvement projects along the Oregon 99W/Oregon 18 corridor.
- Provide widespread support for enhancement of the Oregon 99W/Oregon 18 corridor.

5.6.3 Mid-Willamette Valley Area Commission on Transportation (WVACT)

The WVACT is one of the Area Commissions on Transportation (ACT) chartered by the OTC. It represents Marion, Polk, and Yamhill Counties. The WVACT has 17 voting members, including a county commissioner from each of the counties and representatives from the Yamhill County Transit District, Cities of Salem and Keizer, ODOT, several smaller cities, and from the private sector. The ODOT Area 3 and Bypass Project Team leaders are the ODOT contacts. The commission’s scheduled meetings are the first Thursday of each month. ODOT provides information for frequent updates on the Newberg Dundee Bypass to this group.

5.6.4 Redefinition Workshop

ODOT met with elected officials in August 2007 to form a Project Redefinition Committee after making the decision not to pursue a public-private development approach for the proposed project. The committee looked at potential cost reduction and cost deferral actions for the proposed project. Members of the committee included elected officials of Newberg, Dundee, Dayton, McMinnville, and Yamhill County. The committee met with ODOT in August and twice in October 2007.

5.7 ENVIRONMENTAL JUSTICE OUTREACH

During the development of design and local circulation options, ODOT conducted a special EJ outreach program. The program provided project information to potential EJ communities in the project area and helped to involve these communities in the proposed project. During the outreach program, staff worked with residents and property owners in the project area with lower-than-average income and Hispanic residents who could possibly be affected.
by the proposed project. Spanish is the primary non-English language spoken in the project area.

In March 2006, the project team conducted interviews with city staff, public service providers, and school districts. The interviews determined the best way to provide information and receive feedback from EJ communities. Project staff asked about the location of potential EJ communities, and what businesses, schools, places of worship, and local media serve these communities. Based on the interviews, the project team conducted the following EJ outreach activities:

- Project staff set up an information booth at the NAPS Thriftway grocery store in Newberg on April 24, 2006. Staff displayed a map of the Bypass project area, distributed English and Spanish newsletters, and responded to questions and received feedback. A Spanish interpreter was present to assist project staff.

- On May 10, 2006, project staff sent public service announcements to local radio stations to promote attendance at the May 2006 CS³ workshop. Three Spanish-language radio stations received the announcements.
  - KLYC-AM (1260), McMinnville
  - KWBY-AM “Cowboy” (940), Woodburn
  - KWIP-AM (880), Dallas

The project team also added the mailing addresses of potentially affected EJ communities to the project mailing list if they were not already on the list. Newsletters and meeting notices were sent to the residents of several multifamily developments and a manufactured home community. The meeting notices included an announcement for the May 2006 CS³ workshop.

Right-of-way agents interviewed residents who would potentially be displaced or relocated by the project. Information was collected on ownership/rental, household size, gender, race (including Hispanic), household income, and household special needs. The interviews provided data needed to analyze residential relocation impacts to EJ households within the project area. Ninety-five households were contacted and 93 participated in the interviews, representing approximately 236 residents.

In July 2007, ODOT briefed residents of the Springbrook Estates, a manufactured home neighborhood, about the Bypass and areas of impact to their neighborhood.

The various forms of outreach provided additional information on the location and characteristics of potential EJ communities in the project area. These activities helped these communities become involved in the project.

EJ outreach continued in 2010 with publication of the Tier 2 DEIS and Executive Summary, and the Tier 2 DEIS Public Hearing. A public hearing notice was placed in the El Hispanic News. The Tier 2 DEIS Executive Summary was translated into Spanish and provided upon request. At the Tier 2 DEIS Public Hearing, Spanish translators were available to assist with answering questions about the project, translating written and oral comments and translating ODOT project staff answers. Also in June of 2011, Spanish translators were available to assist with answering questions, translating ODOT project staff responses and assisting Spanish speakers with written comments on Phase 1 at open houses in Dundee and Newberg.

The EJ outreach program was effective in reaching potential EJ communities. As a result of the program, ODOT has continued to receive feedback from Spanish-speaking residents, as well as residents located in potential lower-than-average income areas. ODOT has also received better data to assess impacts to potential EJ communities and has noted increased potential EJ community residents’ attendance at the CS³ workshops.
5.8 TRIBAL CONSULTATION

ODOT is in ongoing consultation with the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of Siletz Indians, and the Confederated Tribes and Bands of the Yakama Nation regarding the proposed project. ODOT also consulted with the Confederated Tribes of Warm Springs, who, after initial meetings, deferred to the Confederated Tribes of the Grand Ronde Community of Oregon and Confederated Tribes of the Siletz Indians.

The ODOT archaeologist acts as ODOT’s tribal liaison on the project and consults with the tribes on a regular basis and at key milestones for the proposed project. FHWA is available to consult with any federally recognized tribe on a government-to-government basis. None of the tribes has identified traditional cultural properties (TCPs) during consultation. The following provides a summary of tribal coordination activities.

5.8.1 Confederated Tribes of the Grand Ronde Community of Oregon Consultation

- September 8, 2006. Emailed Khani Schultz, Cultural Protection Coordinator, with project information and the March 16, 2006, Progress Report from Heritage Research Associates (HRA). Indicated that ODOT would provide Khani with two weeks' fieldwork notice. Provided link to the Newberg Dundee Alternatives Screening report.
- September 11, 2006. Khani Schultz requested additional time to review/comment on project, and wants to accompany HRA during fieldwork. Project was discussed in more detail at a later meeting with ODOT.
- December 6, 2006. ODOT meeting with Khani Schultz, provided project update and project area map. Khani requested fieldwork results.
- February 20, 2007. ODOT staff called Khani Schultz to discuss project. Khani requested pedestrian survey update, including surveyed areas and areas recommended for shovel probing. Khani also asked to accompany HRA during shovel probing.
- March 15, 2007. ODOT emailed Khani Schultz with HRA’s draft pedestrian survey report. Informed Khani that shovel probing had not begun, but that HRA is aware of the request to accompany HRA during shovel probing.
- June 1, 2007. ODOT meeting with Khani Schultz, provided project update and project area map. No specific comments provided.
- September 10, 2007. ODOT emailed Eirik Thorsgard, Cultural Protection Coordinator, and Khani Schultz with project update, including updated fieldwork information.
- October 9, 2007. ODOT emailed Eirik Thorsgard and Khani Schultz with fieldwork update.
- October 31, 2007. Kathryn Toepel, HRA, contacted Eirik Thorsgard to ask if a tribal monitor would join HRA during fieldwork. HRA related that Eirik is not concerned with shovel probes at this time.
- November 16, 2007. ODOT emailed Eirik Thorsgard and Khani Schultz with fieldwork update, including project area maps. Eirik emailed thanks for the update and indicated that Khani has resigned as the Cultural Protection Coordinator.
- November 26, 2007. ODOT meeting with Eirik Thorsgard, provided project update and project area map. No specific comments provided.
February 22, 2008. ODOT emailed Eirik Thorsgard with fieldwork update and project area map.

March 26, 2008. ODOT emailed Eirik Thorsgard with fieldwork update and project area maps.

April 25, 2008. ODOT emailed Eirik Thorsgard project update.

May 12, 2008. ODOT meeting with Eirik Thorsgard and Don Day, Cultural Resources Site Protection Monitor, provided project update and project area map. No specific comments provided.

May 18, 2008. HRA emailed Eirik Thorsgard with fieldwork update and to ask if a tribal monitor would join HRA during fieldwork. Eirik emailed HRA and stated that a tribal monitor is unlikely to accompany HRA.

May 29, 2008. Emailed Eirik Thorsgard with summary of HRA’s fieldwork and project area map.

June 24, 2008. Emailed Eirik Thorsgard with summary of HRA’s fieldwork and project area map.

November 5, 2008. Meeting with Eirik Thorsgard, Robert Kentta, Susan White (SHPO), HRA, Parametrix, and ODOT staff to (1) provide project background information and the current status of archaeological fieldwork; (2) describe project challenges, such as lack of rights-of-entry, no funding, and no construction date; (3) discuss an approach to address cultural resources in support of the EIS and Section 106 processes; and (4) identify next steps.

The group discussed challenges in obtaining private landowner rights-of-entry for the remaining areas of concern and the practical, legal, and political constraints in obtaining rights-of-entry. Eirik Thorsgard and Robert Kentta agreed that the archaeological fieldwork completed thus far is sufficient and that the Tier 2 DEIS should be prepared using the data generated to date. Subsequent to the public review of the Draft EIS in summer 2009, a strategy can be developed to address archaeological issues on the properties for which rights-of-entry have not been provided. This could include a Memorandum of Agreement (MOA), which would need to be completed by the time the ROD is issued. Eirik Thorsgard and Robert Kentta agreed that the tribes likely do not need to be signatories on the MOA, but should be included in the negotiations.

November 6, 2008. ODOT emailed Eirik Thorsgard draft meeting minutes from November 5, 2008, for review. No comments received.

November 20, 2008. ODOT emailed Eirik Thorsgard final meeting minutes from November 5, 2008. No comments received.

December 29, 2008. ODOT emailed Eirik Thorsgard and Don Day updated project information, including isolate/site locations, and project area maps.

December 30, 2008. Don Day left voice message. Stated he would try to access Columbia Empire Farms property. Emailed Eirik Thorsgard and Don Day clarification that isolates/sites were identified by HRA several months ago.

January 22, 2009. Don Day called, discussed location of possible house site, near oak tree and New 5S, 5S.

August 12, 2009. ODOT emailed Eirik Thorsgard and Don Day project information for August 27, 2009, meeting. No comments received.
August 27, 2009. ODOT meeting with Eirik Thorsgard. Provided project information and project area map. Eirik stated that he visited Columbia Empire Farms. Plank houses do not exist and landforms appear to be natural swales. Eirik recommended subsurface probes to confirm observations.

December 1, 2009. ODOT emailed Eirik Thorsgard and Don Day project information for August 11, 2009, meeting. No comments received.

December 11, 2009. Meeting with Eirik Thorsgard, Don Day, and Brandy Humphreys, Environmental Resources Specialist, Natural Resources Division. Provided project information and project area map. No comments received.

December 11, 2009. Norm Rauscher left voice message for Kurt Roedel, ODOT. Stated that Justin Martin and Chris Mercer from the Grand Ronde helped obtain support/funding for the project.

April 19, 2010. Emailed Eirik, Don, Brandy, and Michael Karnosh (Michael), Ceded Lands Coordinator, Natural Resources Division, project information for May 20, 2010, meeting. No comments received.


May 20, 2010. Meeting with Eirik and Michael. Provided project information and project area map. No comments received.

July 19, 2010. Emailed Eirik and Don HRA fieldwork notice and project area map. No comments received.


November 1, 2010. Emailed Eirik and Don HRA fieldwork update, upcoming GPR in Newberg, and project area maps. No comments received.

November 4, 2010. Michael requested information on impacts to streams, riparian areas, wetlands or other sensitive habitats, and how those impacts are planned to be mitigated. I replied, stating I would try to provide information by November 8, 2010, meeting.

November 5, 2010. Emailed Michael and Brandy requested information.

November 8, 2010. Meeting with Eirik and Michael. Provided project information and project area maps. Eirik stated official Tribal response is ‘no comment’ to the potential for presence of plank houses. Monitor for fieldwork at Columbia Empire Farms. Eirik requested tour of project area. Michael requested update on potential for mitigation banking. Emailed Eirik’s project tour request and Michael’s mitigation banking request to Rod Thompson, Environmental Project Manager, and Leon Skiles, Project Consultant.

November 23, 2010. Emailed Eirik and Don HRA fieldwork summary and project area maps. This was a followup to November 1, 2010, email.

January 5, 2011. Emailed Eirik and Don Phase 1 project information and project area maps. Eirik requested HRA fieldwork dates in case the tribes would like to accompany HRA during fieldwork.

March 6, 2011. Kathryn Toepel (Kathryn), Archaeologist, HRA, emailed Eirik fieldwork notice and GPR work in Newberg.


April 25, 2011. Emailed Eirik and Don HRA fieldwork notice and project area maps. No comments received.

April 25, 2011. Kathryn emailed Eirik fieldwork notice for Archaeology Permit Nos. 1410 and 1414.

May 3, 2011. Meeting with Eirik, Michael, and David Harrelson (David), Site Monitor. Provided project information and project area maps. David provided written summary of conversation with landowners Ron/John Niehus. David provided this information to HRA to coordination potential fieldwork.

May 16, 2011. Emailed Eirik and Don HRA fieldwork update and project area maps. No comments received.

June 10, 2011. Emailed Eirik HRA fieldwork update and project area maps. No comments received.

June 21, 2011. Emailed Eirik HRA fieldwork results and project area map. No comments received.

August 18, 2011. Meeting with Eirik and David (now Cultural Protection Specialist) HRA fieldwork notice. David will likely be on site during fieldwork. No comments received.

September 15, 2011. Emailed Eirik and David updated excavation results at Site 35YA15 at Columbia Empire Farm, asked for assistance reviewing MOA/PA, and asked for recommendations on mitigation if adverse effect during construction. No comments received.

October 11, 2011. Emailed Eirik and David updated excavation results at three isolates and Site 35YA15 at Columbia Empire Farm, project area map, updates on upcoming fieldwork at other locations, and stated that MOA/PA is still unknown. No comments received.

October 27, 2011. Emailed Eirik, David, Brandy, and Mike project information for November 10, 2011, meeting. No comments received.

November 10, 2011. Meeting with Eirik, David, and Mike. Provided project information and project area maps. Eirik stated that he had no cultural concerns.


5.8.2 Confederated Tribes of the Siletz Indians Consultation

- September 8, 2006. ODOT emailed Robert Kentta, Cultural Resources Director, with project information and HRA’s March 16, 2006, Progress Report. Indicated that ODOT would provide Robert with two weeks’ fieldwork notice, if desired. Also provided link to the Newberg Dundee Alternatives Screening Report.

- November 2, 2006. ODOT met with Robert Kentta, provided project update and project area map. No specific comments provided.


- September 10, 2007. ODOT emailed Robert Kentta project update, including updated fieldwork information. Robert replied, but with no specific project comments.

- October 9, 2007. ODOT emailed Robert Kentta the fieldwork update.

- November 20, 2007. ODOT met with Robert Kentta, provided project area map. No specific comments provided.

- November 16, 2007. ODOT emailed Robert Kentta fieldwork updates and project area maps.

- March 26, 2008. ODOT emailed Robert Kentta fieldwork updates and project area maps.

- November 5, 2008. See entry for this date under the Confederated Tribes of the Grand Ronde above.

- November 6, 2008. ODOT emailed Robert Kentta draft meeting minutes from November 5, 2008, for review. Email to Robert rejected.

- November 11, 2008. ODOT emailed Robert Kentta draft meeting minutes from November 5, 2008, for review. No comments received.

- November 20, 2008. ODOT emailed Robert Kentta final meeting minutes from November 5, 2008. No comments received.

- November 21, 2008. ODOT emailed Robert Kentta project information for December 8, 2008, meeting. No comments received.

- December 8, 2008. ODOT meeting with Robert Kentta. Provided project information and project area map. No comments received.

- December 29, 2008. ODOT emailed Robert Kentta updated project information, including isolate/site locations, and project area maps.


- December 16, 2009. ODOT meeting with Robert Kentta. Provided project information and project area map. No Traditional Cultural Property concerns mentioned. No comments received.

- July 19, 2010. Emailed Robert subsurface fieldwork notice and project area map. No comments received.

- November 1, 2010. Emailed Robert HRA fieldwork update, upcoming GPR in Newberg, and project area maps. No comments received.
November 23, 2010. Emailed Robert HRA fieldwork summary and project area maps. This was a followup to November 1, 2010, email.

January 5, 2011. Emailed Robert Phase 1 project information and project area maps. No comments received.


April 25, 2011. Emailed Robert HRA fieldwork notice and project area maps. No comments received.

May 16, 2011. Emailed Robert HRA fieldwork update and project area maps. No comments received.

June 10, 2011. Emailed Robert HRA fieldwork update and project area maps. No comments received.

June 21, 2011. Emailed Robert HRA fieldwork results and project area map. No comments received.

September 15, 2011. Emailed Robert updated excavation results at 35YA15 at Columbia Empire Farm, asked for assistance reviewing MOA/PA, and asked for recommendations on mitigation if adverse effect during construction. No comments received.

October 11, 2011. Emailed Robert updated excavation results at three isolates and Site 35YA15 at Columbia Empire Farm, project area map, updates on upcoming fieldwork at other locations, and stated that MOA/PA is still unknown. No comments received.


5.8.3 Confederated Tribes of Warm Springs Consultation

March 26, 2008. ODOT sent three emails to Sally Bird, Cultural Resources Manager; emails provided project information, HRA’s March 16, 2006, Progress Report, draft pedestrian survey report, and fieldwork updates.

March 28, 2008. Sally Bird emailed, thanked ODOT for the project update and deferred comments to tribes closer to the project area.

June 24, 2008. ODOT emailed Sally Bird summary of HRA’s fieldwork and project area map. No comments received.

July 9, 2008. ODOT emailed Sally Bird project update. No comments received.

July 17, 2008. ODOT meeting with Sally Bird and Culture and Heritage Committee. Provided project update and project area maps. No comments received.
October 1, 2008. Emailed Sally to see if she would still like to receive project updates, although she has deferred comments to tribes closer to the project area. No comments received.

November 1, 2010. Emailed Roberta Kirk (Roberta), Review and Compliance Coordinator, HRA fieldwork update, upcoming GPR in Newberg, and project area maps. No comments received. On October 1, 2008, Sally Bird, Cultural Resources Manager, deferred comments to tribes closer to the project area.

September 15, 2011. Emailed Sally and Roberta updated excavation results at 35YA15 at Columbia Empire Farm, asked for assistance reviewing MOA/PA, and asked for recommendations on mitigation if adverse effect during construction. No comments received.


February 6, 2012. Emailed Roberta and Sally Draft Programmatic Agreement for review and comment by February 13, 2012. Sally replied that the tribes are interested in reviewing the Agreement and keeping informed of the project. Re-emailed Sally and Roberta Programmatic Agreement and attachments. Sally replied, all received.


5.8.4 Bands of the Yakama Nation Consultation

November 13, 2009. ODOT emailed Johnson Meninick, Cultural Resources Manager, and Casey Barney, Cultural Resources, project information and project area maps. Requested area of interest for future contacts could be streamlined. No comments received.

October 22, 2010. Emailed Johnson and Casey project information and project area maps. Requested area of interest so future contacts could be streamlined. No comments received.

November 1, 2010. Emailed Johnson and Casey HRA fieldwork update, upcoming GPR in Newberg, and project area maps. No comments received.

November 23, 2010. Emailed Johnson and Casey HRA fieldwork summary and project area maps. This was a follow-up to November 1, 2010, email.

January 5, 2011. Emailed Johnson and Casey Phase 1 project information and project area maps. No comments received.

June 10, 2011. Emailed Johnson and Casey HRA fieldwork update and project area maps. No comments received.

June 21, 2011. Emailed Johnson and Casey HRA fieldwork results and project area map. No comments received.

September 15, 2011. Emailed Johnson and Casey updated excavation results at 35YA15 at Columbia Empire Farm, asked for assistance reviewing MOA/PA, and asked for recommendations on mitigation if adverse effect during construction. No comments received.
- October 11, 2011. Emailed Johnson and Casey updated excavation results at three isolates and Site 35YA15 at Columbia Empire Farm, project area map, updates on upcoming fieldwork at other locations, and stated that MOA/PA is still unknown. No comments received.


## 5.9 SAFETEA-LU 6002 CHECKLIST

### SAFETEA-LU 6002 Checklist

Pursuant to 23 CFR 771.125(b) the following checklist and documentation is required for the legal sufficiency review.

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) IS THE SDOT and/or LOCAL GOVERNMENT A JOINT LEAD AGENCY?</td>
<td>✗</td>
<td>☐</td>
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</table>

**Section 6002 Goal:** Any state or local government agency that is the direct recipient of Federal funds must be identified and participate as a joint lead in the NEPA process.

**Newberg Dundee Bypass:** ODOT and FHWA are the lead agencies for this project.

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<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(2) HAS FHWA RECEIVED PROJECT INITIATION LETTER FROM SDOT PRIOR TO START OF NEPA?</td>
<td>✗</td>
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**Section 6002 Goal:** To notify FHWA regarding the type of work, termini, length/general location of project, and statement of any Federal approvals anticipated to be necessary for project. Purpose of letter is to inform FHWA that the environmental review process should be initiated.

**Documentation Required:** Copy of initiation letter.

**Newberg Dundee Bypass:** This project is being done in a tiered NEPA process. The Tier 1 ROD was signed in August of 2005 prior to SAFETEA-LU being enacted. The Tier 2 process was started shortly thereafter. Once FHWA began preparing SAFETEA-LU guidance and it started to take shape a Project Initiation Letter was determined to be needed for this project. A Project Initiation Letter was sent by the ODOT Region 2 Manager to FHWA on August 28, 2006.

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<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
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<tr>
<td>(3) HAVE PARTICIPATING AGENCIES BEEN IDENTIFIED?</td>
<td>✗</td>
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</table>

**Section 6002 Goal:** The lead agency shall identify any Federal and non-Federal agencies “that may have an interest in the project and shall invite such agencies to become participating agencies.”

**Documentation Required:** Invitation letters or notices and replies.

**Newberg Dundee Bypass:** Participating Agency Letters were sent out on February 20, 2006. Two additional Participating Agency Letters were sent on October 11 and October 13, 2006.
SAFETEA-LU 6002 Checklist

Pursuant to 23 CFR 771.125(b) the following checklist and documentation is required for the legal sufficiency review.

<table>
<thead>
<tr>
<th>Participating Agencies:</th>
</tr>
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<tbody>
<tr>
<td>1) EPA – Did not respond to Cooperating Agency Letter, EPA becomes a Participating Agency by default.</td>
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<tr>
<td>2) NMFS – No response from initial letter. Second Cooperating Agency Letter sent June 16, 2008; Declined Cooperating Agency – Accepted Participating Agency on August 5, 2008.</td>
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<tr>
<td>3) DLCD – Accepted March 15, 2006</td>
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<td>4) Marion County – Accepted February 28, 2006</td>
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<td>5) City of Dayton – Accepted February 22, 2006</td>
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<td>6) City of Dundee – Accepted February 21, 2006</td>
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<td>7) City of Newberg – Accepted February 28, 2006</td>
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<tr>
<td>8) City of McMinnville – Accepted February 28, 2006</td>
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<table>
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<tr>
<th>Agencies that Declined:</th>
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<tbody>
<tr>
<td>1) Confederated Tribes of Grand Ronde</td>
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<tr>
<td>2) NMFS</td>
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<table>
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<tr>
<th>State/Local Agencies that Did Not Respond:</th>
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<tbody>
<tr>
<td>1) ODFW</td>
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<tr>
<td>2) ODEQ</td>
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<tr>
<td>3) ODSL</td>
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<tr>
<td>4) SHPO</td>
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<td>5) OPRD</td>
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<tr>
<td>6) ODECD</td>
</tr>
<tr>
<td>7) ODA - Aviation</td>
</tr>
<tr>
<td>8) Washington County</td>
</tr>
<tr>
<td>9) Yamhill County</td>
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<tr>
<td>10) Confederate Tribes of the Siletz</td>
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</tbody>
</table>
### SAFETEA-LU 6002 Checklist

Pursuant to 23 CFR 771.125(b) the following checklist and documentation is required for the legal sufficiency review.  

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>(4) HAVE COOPERATING AGENCIES BEEN IDENTIFIED AS APPROPRIATE?</td>
<td>x</td>
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</table>

**Section 6002 Goal:** Participating agencies can also be cooperating agencies.

**Documentation Required:** List of Cooperating Agencies and Invitation letters and their replies.

**Newberg Dundee Bypass:** Cooperating Agency Letters were sent by FHWA to the following agencies, which accepted cooperating Agency status:

2) USACOE – Sent letter September 12, 2006; Accepted July 21, 2009
3) USFWS – Sent letter June 16, 2008; Accepted July 30, 2008

FHWA also sent a letter inviting NMFS to be a Cooperating Agency; NMFS did not respond. FHWA sent a second Cooperating Agency Letter on June 16, 2008. NMFS declined Cooperating Agency status and accepted Participating Agency status on August 5, 2008.

4) NMFS – See Participating Agencies above.

**(5) HAS THE LEAD AGENCY PROVIDED AN OPPORTUNITY FOR INVOLVEMENT BY PARTICIPATING AGENCIES IN THE DEVELOPMENT OF THE PROJECT’S PURPOSE AND NEED?**

**Section 6002 Goal:** Lead agency shall provide an opportunity for involvement by the participating agencies in defining the project’s purpose and need.

**Newberg Dundee Bypass:** The Purpose and Need was vetted through meetings, working groups, and briefings with local jurisdictions and with CETAS. CETAS represents state and federal resource agencies, most with permitting authority that have an interest in ODOT projects. Participating and Cooperating Agencies were also given the opportunity to review and comment on the Draft Purpose and Need – as it was sent with the Participating and Cooperating Agency Letters. For more detail see Tier 2 FEIS Sections 5.3.4, 5.5 and Appendix M.

**(6) HAS THE LEAD AGENCY PROVIDED AN OPPORTUNITY FOR INVOLVEMENT BY THE PUBLIC IN THE DEVELOPMENT OF THE PROJECT’S PURPOSE AND NEED?**

**Section 6002 Goal:** Lead agency shall provide an opportunity for involvement by the public in defining the project’s purpose and need.

**Newberg Dundee Bypass:** The Purpose and Need was vetted through public meetings and working groups which provided opportunities for the public to be involved in their development and to provide input and comments. For more detail see Tier 2 FEIS Sections 5.4, 5.6, and Appendix M.
**SAFETEA-LU 6002 Checklist**

Pursuant to 23 CFR 771.125(b) the following checklist and documentation is required for the legal sufficiency review.

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
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</thead>
<tbody>
<tr>
<td>(7) HAS THE LEAD AGENCY PROVIDED AN OPPORTUNITY FOR INVOLVEMENT BY PARTICIPATING AGENCIES IN THE DEVELOPMENT OF THE PROJECT’S RANGE OF ALTERNATIVES?</td>
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</table>

**Section 6002 Goal:** Lead agency shall provide an opportunity for involvement by the participating agencies in defining the project’s range of alternatives.

**Newberg Dundee Bypass:** The Range of Alternatives was vetted through meetings, working groups, and briefings with local jurisdictions and with CETAS. Participating and Cooperating Agencies were given the opportunity to be involved in the development, review, and comment on the Range of Alternatives. For more detail, see Tier 2 FEIS Sections 5.3.5, 5.5, 5.6, and Appendix M.

| (8) HAS THE LEAD AGENCY PROVIDED AN OPPORTUNITY FOR INVOLVEMENT BY THE PUBLIC IN THE DEVELOPMENT OF THE PROJECT’S RANGE OF ALTERNATIVES? |   |

**Section 6002 Goal:** Lead agency shall provide an opportunity for involvement by the public in defining the project’s Range of Alternatives.

**Newberg Dundee Bypass:** The Range of Alternatives was vetted through meetings, working groups, and briefings with the public. The public were given the opportunity to be involved in the development, review, and comment on the Range of Alternatives. For more detail see Tier 2 FEIS Sections 5.4, 5.6 and Appendix M.

| (9) HAS THE LEAD AGENCY DETERMINED THE METHODOLOGIES TO BE USED AND LEVEL OF DETAIL REQUIRED TO ANALYZE EACH ALTERNATIVE? |   |

HAS THIS DETERMINATION BEEN DONE IN COLLABORATION WITH THE PARTICIPATING AGENCIES?

**Section 6002 Goal:** Lead agency will determine appropriate methodologies in collaboration with the Participating Agencies.

**Newberg Dundee Bypass:** Methodologies for each resource were selected and reports prepared in collaboration with ODOT specialists and Participating Agencies and the methodologies were sent to them for review and comment in late 2005 to early 2006. For more details see Tier 2 FEIS Sections 5.3.2 and Appendix M.

| (10) HAS A COORDINATION PLAN BEEN DEVELOPED BY LEAD AGENCY WITH CONSULTATION OF PARTICIPATING AGENCIES? |   |

**Section 6002 Goal:** The coordination plan is intended to coordinate public and agency participation in and comment on the environmental review process.

**Documentation Required:** The Coordination Plan.

**Newberg Dundee Bypass:** The Coordination Plan was last revised in February 2012. See Appendix M.
**SAFETEA-LU 6002 Checklist**

Pursuant to 23 CFR 771.125(b) the following checklist and documentation is required for the legal sufficiency review.

<table>
<thead>
<tr>
<th>(11) IF A SCHEDULE HAS BEEN ESTABLISHED AS PART OF COORDINATION PLAN, WERE THE FOUR STATUTORY FACTORS CONSIDERED?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 6002 Goal:</strong> If a lead agency develops a project schedule or modifies it, the lead agency shall consult with the participating agencies, the State DOT, and consider the four statutory factors.</td>
</tr>
<tr>
<td><strong>Newberg Dundee Bypass:</strong> A schedule as part of the Coordination Plan and was approved by the Lead Agencies. The factors listed for consideration are:</td>
</tr>
<tr>
<td>1) Responsibilities of Participating Agencies – These responsibilities are outlined in the Coordination Plan.</td>
</tr>
<tr>
<td>2) Resources available to the Cooperating Agencies – Cooperating and Participating Agencies were included in existing project teams and CETAS to reduce redundant meeting participation.</td>
</tr>
<tr>
<td>3) Overall size and complexity of the project and overall schedule for and cost of the project – Due to the complexity of the project the schedule was extended several times to provide for better collaboration between the Lead Agencies and the Participating Agencies and for Tier 2 DEIS and FEIS revisions.</td>
</tr>
<tr>
<td>4) Sensitivity of natural and historic resources that could be affected by the project – because the project area includes many parks, stream crossings, wetlands, and some potentially historic resources, these resources were considered early on in the process.</td>
</tr>
</tbody>
</table>

For current schedule see Appendix M.

<table>
<thead>
<tr>
<th>(12) HAS LEAD AGENCY ESTABLISHED THE COMMENT DEADLINES TO BE USED DURING ENVIRONMENTAL REVIEW PROCESS?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 6002 Goal:</strong> The public comment period will be 45 days.</td>
</tr>
<tr>
<td><strong>Newberg Dundee Bypass:</strong> The project’s Tier 2 DEIS was published on June 4, 2010. ODOT and FHWA provided a 45-day comment period that closed on July 19, 2010. The public and Participating Agencies were notified of the comment period via postal mail, email, and the project website of the availability of the Tier 2 DEIS. The comment period was also announced in the Federal Register, The Oregonian, Newberg Graphic, Yamhill News Register and El Hispanic News. Copies of all substantive comments received by ODOT and FHWA during the public comment period and responses to those comments can be found in Appendix N of the Tier 2 FEIS.</td>
</tr>
<tr>
<td>SAFETEA-LU 6002 Checklist</td>
</tr>
<tr>
<td>--------------------------</td>
</tr>
<tr>
<td>Pursuant to 23 CFR 771.125(b) the following checklist and documentation is required for the legal sufficiency review.</td>
</tr>
<tr>
<td>(13) HAS LEAD AGENCY MADE ENVIRONMENTAL AND SOCIOECONOMIC INFORMATION AVAILABLE TO PARTICIPATING AGENCIES EARLY DURING THE REVIEW PROCESS?</td>
</tr>
<tr>
<td><strong>Section 6002 Goal:</strong> Requires lead agencies to make available to participating agencies as early as practicable information about environmental and socioeconomic resources in the project area and general locations of the alternatives. Based upon this information, participating agencies shall identify issues of concern.</td>
</tr>
<tr>
<td><strong>Newberg Dundee Bypass:</strong> Agencies received environmental and socioeconomic information in the Tier 2 DEIS when it was published in June 2010.</td>
</tr>
<tr>
<td>(14) Optional – Has a higher level of detail for the preferred alternative been developed?</td>
</tr>
<tr>
<td><strong>Section 6002 Goal:</strong> Allows development of the preferred alternative, once identified, to a higher level of detail for the purposes of facilitating development of mitigation measures and/or concurrent compliance with other laws.</td>
</tr>
<tr>
<td><strong>Documentation Required:</strong> FHWA’s determination that development of a higher level of detail will not prevent the lead agency from making an impartial decision whether to accept another alternative under consideration.</td>
</tr>
<tr>
<td><strong>Newberg Dundee Bypass:</strong> All alternatives and options were developed at the same level of detail for the Tier 2 DEIS. ODOT identified a Preferred Alternative in the Tier 2 FEIS. Additional detail for the design of the Preferred Alternative was prepared for the Tier 2 FEIS to account for project phasing, to further avoid and minimize adverse impacts and to provide for mitigation commitments.</td>
</tr>
</tbody>
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