

July 19, 2013

Roy Elicker, Director
Oregon Department of Fish and Wildlife
3406 Cherry Ave. NE
Salem, Oregon 97303

Re: Ladd Marsh Additions Federal Mitigation Site

Dear Mr. Elicker:

It has been brought to my attention that ODFW provided no specific comments regarding the multiple negative impacts to the Ladd Marsh Additions Federal Mitigation site which will occur in the event that the Antelope Ridge Wind Farm is constructed. It also appears that the mediated mitigation agreement is contrary to your contract with BPA as it is not consistent with the USFWS or ODFW mitigation requirements.

Ladd Marsh Mitigation Project is mandated under the Northwest Electric Power Planning and Conservation Act, and the Northwest Power Act, Section 4 (H)(1)(A). The federal government is a party to issues impacting this site as it was developed to compensate for damages caused by the Columbia River Dams. Project ID 200002100 is the Bonneville Power document delineating the project details. The agreement and payments to ODFW specifically require your agency to manage and protect this area from any and all negative impacts on a permanent basis. ODFW has for many years been receiving annual payments from BPA for meeting this federal obligation. As the sponsor of this site you are required by (33 CFR 332.8) to manage the site in perpetuity as a functioning wetland or other aquatic system. You have legally assumed responsibility for managing and maintaining the site, not BPA. A failure to review and address impacts to the sites from the proposed wind farm would be contrary to your contractual requirements. It also appears that 23 CR 777.9 applies to this site.

Ladd Marsh is listed by the Oregon Trust Agreement Planning project initiated by the Oregon Wildlife Coalition as a priority site.

We have obtained multiple documents that list many significant ODFW staff concerns regarding negative impacts to Ladd Marsh should the proposed wind farm be built. Those concerns include, but are not limited to the following:

- A. Further development of Ladd Marsh Wildlife Area should be discouraged due to the fact that making the site more appealing to migratory birds will increase the fatalities at the wind farm and impact its value to migratory birds.
- B. Displaced elk and deer will overgraze the vegetation at the site.

C. The development will disrupt existing migratory bird flyways going into and out of Ladd Marsh.

D. The proposed wind farm directly conflicts with the long term stated goals of the Ladd Marsh mitigation project for expansion into the area being proposed for the Wind Farm development. The development will preclude the future expansion which takes years to purchase, obtain long term leases or otherwise secure land.

E. Plans to do habitat enhancement to sections of Ladd Creek will be impacted.

F. Requirements to protect the visual quality of the site will be negatively impacted.

G. Deaths of migratory birds flying into and out of the refuge will be significant.

The fact that there is no indication that mitigation is planned for the negative impacts would be problematic, however, the requirement that no mitigation agreement can result in negative impacts on the Ladd Marsh Additions sites requires ODFW to object to any agreement which does not conform to the federal statutes regarding mitigation of habitat impacts or that would in any way result in harm to the Ladd Marsh Additions Federal Mitigation Site.

Our members are concerned that ODFW does not appear to have done the necessary analysis or gathered data necessary to comment on the impacts that have been identified in multiple internal documents. Please respond to the following issues:

1. How does ODFW plan to meet the requirements of your agreement to manage Ladd Marsh Mitigation site to preclude the damages which your staff have identified? Do you plan to comment on the Draft Proposed Order regarding negative impacts to the sites you are required to protect?
2. There appears to be an absence of notification to the multiple partners who have and continue to participate in the development of this site. As the managing authority, do you intend to compile concerns from these impacted agencies and volunteers? It would appear to be a reasonable expectation on the part of those who have donated time and money that ODFW would be taking the lead in assuring that the requirement that no damage is done to this site or its resources is met. In fact, it seems reasonable that BPA would expect your agency to compile concerns from those other partners as well as your own staff since you have been delegated responsibility to act in their behalf .
3. The applicant falsely states that there is currently no data indicating a presence of redband trout or other native migratory species within the site boundary. ODFW collected *Oncorhynchus mykiss* from Ladd Canyon (Brush Creek). Not only is suitable habitat present on site for redband trout, but they are spawning at the site. Upstream impacts to spawning habitat for fish will have a direct impact upon the mitigation goals for Ladd Marsh Mitigation Site.

I look forward to hearing from you regarding these important issue and actions you will be taking to meet the obligations of your agreement with BPA. The wildlife studies are now complete and scheduled to be presented to the EFSC in September. The Draft Proposed Order and the opportunity for comments on that document are predicted to be made available early in 2014.

Sincerely,

Jed Farmer
Chair, Friends of the Grande Ronde Valley (FGRV)
P.O. Box 864
Union, OR 97883

Cc: Bruce Eddy
Irene Gilbert
Sue Oliver