

Douglas County Trail Disposal Synopsis January 4, 2008

In recent years, various studies have confirmed the need for a north-south corridor in the greater East Wenatchee area. The latest was a Draft Environmental Impact Statement (DEIS) for the SR 28, Jct. US 2/97 to 9th Street (aka "Eastside Corridor Project"). It was released for public comment in January 2005.

The associated Final Environmental Impact Statement (FEIS) (November 2006) and Record of Decision (ROD) (May 2007) were issued. The notice of the ROD was published in the Federal Register on July 11, 2007, which started a 180-day appeal window, which ends on January 7, 2008. There are no appeals or comments filed as of December 17, 2007.

When fully constructed, the recommended alternative includes extension of Eastmont Avenue and widening the existing SR 28 from 2 to 4-5 lanes. As conceived, the work would be done in seven stages. Portions of the existing "riverfront" right of way would be utilized in selected areas for stormwater treatment and potentially for maintenance of environmentally sensitive areas.

Issuance of the ROD triggered a great deal of interest in the existing right of way and the trail that occupies a portion of it. To prepare for the ultimate disposal of this property, we have started to identify challenges and opportunities that are part of the process. Several decisions must be made by local jurisdictions before we finalize any plans so we can better meet their expectations. We have identified several so far, but there may be more.

Local Decisions Needed

Early conversations between local decision makers and WSDOT should continue to facilitate an understanding of the process and legal requirements.

There are many decisions that need to be made with the local jurisdictions in order to develop a strategic disposal plan. For example:

- Should the trail remain in its existing location?
- What is the best use of the remaining lands?
- Should the trail be moved away from the river to facilitate development of the waterfront?
- Should the trail be moved near the river to eliminate/reduce access issues?

- Can this be a decision for the entire trail, or would this vary at different locations of it?
- How wide should the final trail configuration be?
- Will there a buffer between trail edge and disposed/developed property?

General Requirements

WSDOT has very clear legal requirements for disposal of property. The general authorities and legal requirements for the WSDOT disposal process can be found in:

- **RCW 47.12.063** – Provides the Department's authority to negotiate direct sales or exchanges with certain entities at fair market value. The list of authorized parties includes the city or county where the property is located, as well as the prior owner, abutting owners (with some conditions), and other governmental entities.
- **RCW 47.12.283** – Sets forth procedures for disposal by public auction and includes advertising requirements. At an auction we sell the property to the highest and best bidder provided the bid is equal to or higher than the appraised fair market value. If we do not receive any bids at the auction that meet or exceed our minimum bid, the property is available for purchase at fair market value following the auction.
- **WAC 468-30-120** – Sets forth the procedure when the Department disposes of agricultural property. It requires that we offer the property to the abutting property owners in agricultural zoned areas before offering it to any other entity.
- **HB 1940** – This bill from the 2007 legislative session requires that we provide notice to towns, cities, and counties before we dispose of real property.

In addition, trail leases are allowed within WSDOT's right of way pursuant to Chapter 47.30 RCW. This statute defines circumstances when trails may be considered a highway purpose. The trail must meet one of the following three criteria to qualify as a highway purpose.

- a) An existing highway severs a trail; or
- b) The right of way of an existing highway accommodates a trail; or
- c) The separation of motor vehicle traffic from pedestrians, equestrians, or bicyclists materially increases the motor vehicle safety.

If one of these conditions is met and the trail is part of an adopted comprehensive trail plan by a local, state or federal agency, the Department may allow use of its property for a trail without compensation. We have historically accomplished this through a lease.

Next Steps

We need to review all parcels to determine what ownership interests WSDOT has in each one and what title issues may exist, such as easements, reservations, etc. We believe one parcel contains a reversionary clause. This information is necessary to begin the valuation process, since all disposals are required to be conveyed at fair market value (RCW 47.12.063). Priority consideration must be given to abutting property owners in agricultural zoned areas (WAC 468-30-120).

We must determine what access issues there may be, and confirm the original funding source to see what involvement FHWA may have in the process.

A new funding source is necessary to begin the following work:

- Inventory of the specific property to be declared surplus
- Appraisals
- Appraisal review
- Surveys (if necessary)
- Deed reviews to verify WSDOT ownership interests
- Property management administration

There are a couple of options for the ultimate ownership of the land under the trail to consider, thoroughly investigate, and discuss before final decisions are made. Both options contemplate that only the width of the property necessary for the trail and any buffer area would be retained in public ownership. The rest of the width would be sold pursuant to our disposal statutes (see above).

WSDOT could retain ownership of the property and either perpetuate the existing leases or replace them with new ones. This is probably not our preferred alternative as we would retain some liability and exposure for claims or lawsuits if we are the land owner. WSDOT could also transfer ownership to the local jurisdictions with a restriction on land use (much like we put in our standard turnback deeds). Long-term maintenance responsibilities are a primary issue due to cost.