



Oregon

Tina Kotek, Governor

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March 13, 2024

Thomas Parker
Environmental Program Manager
Federal Highway Administration
Oregon Division
530 Center Street NE, Suite 420
Salem, Oregon 97301

**Subject: Section 4(f) *de minimis* Finding for Public parks, Recreation Areas, and
Wildlife and Waterfowl Refuges
Fern Ridge Wildlife Area
OR126 Veneta to Eugene Project
Lane County, Oregon
Key No. 21231
Federal Aid No. SA00(166)
SHPO Case No. 21-0007**

Dear Mr. Parker:

This letter requests Federal Highway Administration (FHWA) approval of the following Section 4(f) *de minimis* finding for the Fern Ridge Wildlife Area bordering the OR126 Veneta to Eugene Project. The Oregon Department of Transportation (ODOT) is preparing a Categorical Exclusion for this project. The construction of the project is not scheduled pending securing funds for advanced design.

ODOT proposes to upgrade the OR126 highway between the City of Eugene and City Veneta. The proposed improvements in the corridor include widening of the roadway from two to four travel lanes for safety and congestion relief on approximately 7.2 miles of OR126 between Huston Road in Veneta and Terry Street in Eugene. The roadway is classified as a Freight Route and Statewide Highway with posted speeds of 55 miles per hour. Further, the project will improve safety on the highway overall and at intersection points by adding signalization or roundabouts, and modified left-turn lanes. The project will improve multimodal opportunities by creating a continuous multiuse path separated from the highway on the north side.

OR126 abuts the Fern Ridge Wildlife Area (Wildlife Area), a Section 4(f) resource, owned by the US Corps of Engineers (USACE) and operated by the Oregon Department of Fish and Wildlife. The Fern Ridge Wildlife Area adjacent to Fern Ridge Lake consists of approximately 5,934 acres, comprised of a number of contiguous and non-contiguous parcels. The primary purpose is as a wildlife refuge and conservation area, however, the facility also supports public recreation including wildlife viewing, birding, hunting, fishing, canoeing, and walking. Key features of the Wildlife Area include one boat launch, two canoe launches, viewing platforms, various small parking areas, and trails. The OR126 Veneta to Eugene Project has limited the expected

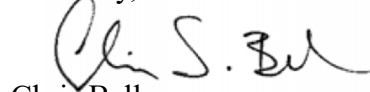
acquisition for fee, permanent easement, or temporary easement abutting and parallel to OR126 to be a total of 5.39 acres, or less than 0.1% of the refuge's total area. The fee acquisition and permanent easement will not affect the public's ability to use any of the activities, features, or attributes of the Wildlife Area. The Area will be open during construction. After construction is finished, a new multiuse path will provide a new mode of access to the Wildlife Refuge with improvements to vehicular access.

Avoidance of Fern Ridge Wildlife Area property was not possible due to the need to widen OR126 to the north. The project alignment is constrained on the south side by the Coos Railroad. The design team carefully limited the permanent use of the property to the area immediately bordering OR126. ODOT understands the importance of the Wildlife Area's existing recreational uses and has considered how to preserve and minimize impacts to its recreational features. The proposed multiuse path is expected to enhance public access and appreciation of the Area.

Therefore, with careful consideration to the land to be procured and the lack of impacts to the wildlife use and recreational features present, as well as enhancing safe access the property, the Section 4(f) use is considered minor in scale (*de minimis*) as compared to the entire site. No adverse effects to the qualifying activities, features, or attributes of the Section 4(f) property. The linear fee acquisition and permanent easement bordering OR126 will be consistent with the Uniform Act. It is possible that a future Section 4(f) Temporary Occupancy finding may also needed for construction.

Please contact me or Donna Hinze at 503-302-5748 if you have questions pertaining to this finding. Upon approval, please transmit the signed copy to this office (TLC, 4040 Fairview Industrial Drive), where we will distribute this according to protocol.

Sincerely,



Chris Bell
ODOT Architectural History Program Coordinator

The FHWA makes a Section 4(f) de minimis finding for OR126 Veneta to Eugene, Fern Ridge Wildlife Area as described in this document.

Thomas Parker
Environmental Program Manager
Federal Highway Administration

Date

Attachments:

Signed Section 4(f) Official with Jurisdiction Letter

Copies to:

Benjamin Haines, P.E., Operations Engineer – Region 2
Donna Hinze, ODOT Region 2 Environmental Coordinator

The OR 126: Veneta to Eugene project conducted a comprehensive public outreach campaign during the comment period that opened on January 10, 2023 and closed at 11:59 on January 31, 2023.

Approximately 184 comments were received during this specific outreach effort. Many people commented on the potential impacts to wildlife and their habitat, including wetlands, from widening the highway. Some people recognized there are impacts but thought the benefits to traveler safety is more important.

During the overall public involvement phase for this project there was overwhelming support to widen the highway from two to four lanes. Those responding to the survey about impacts to the park and refuge also supported widening the highway.

Overall, there were several duplicate and general comments about the project that didn't pertain to the park outreach. Of the 184 comments:

- 90 were from the Fern Ridge Wildlife Area comment form – 54 of which were specific to the park.
- 75 were from the Perkins Park comment form – 55 of which were specific to the park.
- 19 comments came in via email, phone and other means – 9 of which were specific to the park.

These comments have been combined with the 392 received from the two online open house that were held earlier for the project.

Notice of the park impacts and public comment period were:

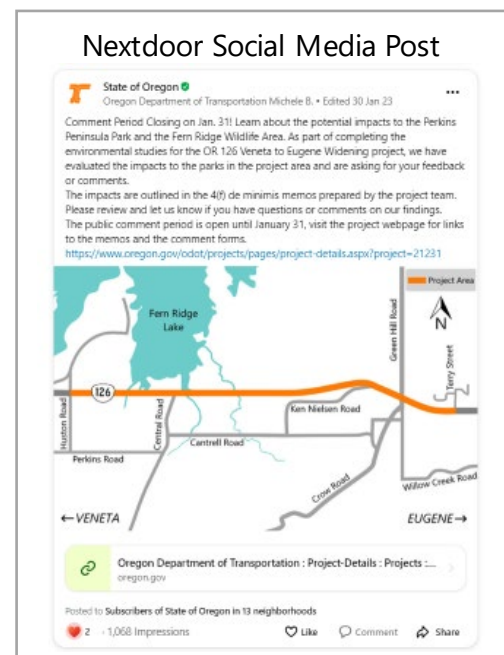
- Posted on the project webpage – the *de minimis* finding memorandums and direct links to the comment forms.
 - Webpage had 874 visits during comment period.
- Flyers posted onsite at the two locations and at the Fern Ridge Library.
- Posted to 13 neighborhoods between Veneta and Eugene on Nextdoor, the networking application. The post has 1,068 impressions.
- Shared at the January 11, 2023 Lane County Area Committee on Transportation meeting.
- Sent out through our GovDelivery email system to approximately 6,000 media, residents, businesses and road users who signed up to receive notices about this project. Links to the resulting media coverage below.

- Link Initial Notice:

<https://content.govdelivery.com/accounts/ORDOT/bulletins/33de87d>

- Link to Reminder Email:

<https://content.govdelivery.com/accounts/ORDOT/bulletins/345ed40>



Media Coverage:

- ODOT planning widening of Highway 126 between Veneta and Eugene (KEZI)
https://www.kezi.com/news/odot-planning-widening-of-highway-126-between-veneta-and-eugene/article_bef42e48-92a4-11ed-9c94-b74483b13f98.html
- ODOT planning to expand Highway 126 between Eugene and Veneta (KVAL)
[ODOT planning to expand Highway 126 between Eugene and Veneta \(kval.com\)](https://www.kval.com/story/news/2021/09/15/odot-planning-to-expand-highway-126-between-eugene-and-veneta/7548346002700001)
- Feedback sought on potential impacts to Perkins Peninsula Park, Fern Ridge Wildlife Area (KMTR)
[Feedback sought on potential impacts to Perkins Peninsula Park, Fern Ridge Wildlife Area \(nbc16.com\)](https://www.kmtr.com/story/news/2021/09/15/feedback-sought-on-potential-impacts-to-perkins-peninsula-park-fern-ridge-wildlife-area/7548346002700001)
- ODOT says Highway 126 widening will cause minimal impact to wildlife area (KLCC)
[ODOT says Highway 126 widening will cause minimal impact to wildlife area \(klcc.org\)](https://www.klcc.org/news/2021/09/15/odot-says-highway-126-widening-will-cause-minimal-impact-to-wildlife-area/)
- ODOT planning to expand Highway 126 between Eugene and Veneta (KPIC)
[ODOT planning to expand Highway 126 between Eugene and Veneta \(kpic.com\)](https://www.kpic.com/story/news/2021/09/15/odot-planning-to-expand-highway-126-between-eugene-and-veneta/7548346002700001)



Oregon

Kate Brown, Governor

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December 21, 2021

Colonel Michael D. Helton, Commander and District Engineer
USACE Portland District
333 SW 1st Avenue
Portland, OR 97204

David Speten, Wildlife Manager
Fern Ridge Wildlife Area
Oregon Department of Fish and Wildlife
26969 Cantrell Rd
Eugene, OR 97402-9290

**Subject: Proposed Section 4(f) *de minimis* Finding for Public Parks, Recreation Areas,
and Wildlife and Waterfowl Refuges
Fern Ridge Wildlife Area
OR126: Veneta to Eugene Project
Lane County, Oregon
ODOT Key No. 21231
Federal-Aid No. SA00(166)**

Dear Col. Helton and Mr. Speten:

This letter requests U.S. Army Corps of Engineers (USACE) and Oregon Department of Fish and Wildlife (ODFW) approval of a Section 4(f) *de minimis* finding for the Fern Ridge Wildlife Area, associated with the OR126: Veneta to Eugene Project (project). Through this project, the Oregon Department of Transportation (ODOT) is proposing multiple safety and congestion relief improvements to approximately 7.2 miles of OR126 in Lane County, Oregon, between Huston Road in Veneta and Terry Street in Eugene. This roadway segment currently comprises two travel lanes with left-turn lanes at major intersections; it is classified as a Freight Route and Statewide Highway with a posted speed of 55 miles per hour. The surrounding land use is primarily agricultural and residential, with increased density of commercial and industrial development on the western and eastern edges of the corridor near the Veneta and Eugene city limits. The proposed improvements include widening the two-lane road to a four-lane road and developing a shared-use path adjacent to the roadway. The improvements also include traffic control changes, such as traffic signals or roundabouts and additional and modified left-turn lanes at multiple intersections.

The proposed improvements along OR126 address safety deficiencies that were documented in the Highway 126 Fern Ridge Corridor Plan (Corridor Plan) prepared by ODOT and adopted by the Oregon Transportation Commission on April 17, 2013. The project builds upon the Corridor Plan to refine the

design of the Four-Lane Alternative and to complete the environmental documentation necessary for the project to advance. The current project is state-funded through House Bill 2017 but has a federal nexus for environmental clearances with the FHWA to qualify the project for future federal funding. Additional funding for final design, right-of-way acquisition, and construction has not yet been identified. When funding is secured, this document should be reevaluated to determine if it remains consistent with the project scope, current laws, regulations, and practices, and that there have been no changes within the project's Area of Potential Impact (API) that effect the accuracy of its content and recommendations.

Because future FHWA funding is anticipated, the project must be evaluated under Section 4(f) of the United States Department of Transportation Act of 1966. This legislation requires the FHWA to protect Section 4(f) properties, which include parks, recreational areas, historic sites, and wildlife and waterfowl refuges. As proposed, the OR126: Veneta to Eugene Project would require new, permanent right-of-way in the South Marsh, West Coyote, and Fisher Butte units of the Fern Ridge Wildlife Area (FRWA), which is a Section 4(f) property for the purpose of this project. The FRWA is under the ownership of the USACE and is co-managed by the USACE and the ODFW; both agencies serve as Section 4(f) Officials with Jurisdiction (OWJ) for the purposes of this project.

Overview of Fern Ridge Wildlife Area

The FRWA was created in 1957 through a licensing agreement between the USACE and the Oregon Game Commission (now the ODFW), which authorized the state to “develop, conserve, and manage all wildlife resources” around Fern Ridge Lake, including land and water areas.¹ The agreement was modified and renewed in 1982 and again in 2008. The 309-acre Coyote Creek South unit, the 224-acre Coyote Creek Northeast unit, and the 140-acre South Coyote II and South Coyote III units were acquired in 2013, 2015, and 2021, respectively. The wildlife area presently totals approximately 5,934 acres (noncontiguous) and consists of 13 units.² Though primarily a wildlife refuge and conservation area for wintering and nesting waterfowl, the FRWA also supports various public recreation activities including wildlife viewing, birding, hunting, fishing, canoeing, power-boating, sail-boating, water skiing, picnicking, hiking, cycling, and nature walking. Key features and attributes that support these activities include one power-boat launch, two canoe launches, wildlife viewing platforms, various small parking areas, and nature trails along the Long Tom River and Coyote Creek. The refuge's public hours are 4am to 10pm, and an ODFW Wildlife Area Parking Permit is required to park in sanctioned parking lots.³

¹ Oregon Department of Fish & Wildlife, “Fern Ridge Wildlife Area Management Plan” [draft] (January 2007), 4. Fern Ridge Lake was constructed in 1941 as one of 13 USACE reservoirs in the Willamette River basin.

² Oregon Department of Fish & Wildlife, “Fern Ridge Wildlife Area Visitors’ Guide,” *Oregon Department of Fish and Wildlife*, accessed November 2, 2021, at <https://myodfw.com/fern-ridge-wildlife-area-visitors-guide>; Louis Krauss, “Fish and Wildlife Commission adds 140 acres to Fern Ridge Wildlife Area,” *Register-Guard* (Eugene, OR), June 26, 2021; Oregon Department of Fish & Wildlife, “Fern Ridge Wildlife Area Management Plan” [draft] (January 2007), 7.

³ Oregon Department of Fish & Wildlife, “Fern Ridge Wildlife Area Visitors’ Guide,” *Oregon Department of Fish and Wildlife*, accessed November 2, 2021, at <https://myodfw.com/fern-ridge-wildlife-area-visitors-guide>.

As a publicly owned, publicly accessible wildlife area with primary focuses on refuge and recreation activities, the FRWA meets the criteria for a Section 4(f) property as defined by the FHWA.⁴ Its boundary (including land and water areas) and key features are depicted in Figure 1.

Relevant Project Activities

Among other safety and congestion relief improvements along OR126 between Huston Road in Veneta and Terry Street in Eugene, the OR126: Veneta to Eugene Project will impose new, permanent right-of-way takes in the South Marsh, West Coyote, East Coyote, and Fisher Butte units of the FRWA in order to accommodate the widening of OR126 and the addition of a multi-use path paralleling the highway (Figures 2 through 5). Most of these takes will impact areas that are of low value for recreation and wildlife habitat (Figures 6). However, the project's API also includes small portions of two parking areas located along the north side of OR126, at the southern boundary of the FRWA's South Marsh and Fisher Butte units (Figures 7 through 9).

De Minimis Finding

A Section 4(f) *de minimis* impact determination is based on the degree or level of impact to a Section 4(f) property, including any avoidance, minimization, mitigation, or enhancement measures included in the project to address the Section 4(f) use. A project with a *de minimis* impact to a Section 4(f) property should result in no adverse effects to the property's qualifying activities, features, or attributes. The evaluation also takes into account the expected positive effects of any measures to mitigate the adverse effects on a historic site, park, recreational area, or refuge when determining whether the impact to the Section 4(f) property is *de minimis* in nature.⁵

The OR126: Veneta to Eugene Project has limited the extent of right-of-way acquisitions for permanent and temporary easements along OR126, with the result that project activities will have only a *de minimis* impact to the FRWA. A total of 5.39 acres, or less than 0.1% of the refuge's total area, is located within the project's API. Anticipated right-of-way takes parallel the existing highway and will not affect areas of high value for wildlife habitat, nor will they result in increased habitat fragmentation. The project will slightly reduce the extent of the South Marsh parking area, but sufficient space for parking and safely maneuvering passenger vehicles will be retained (Figure 3). The project will also reduce the width of the narrow, vegetated island separating the Fisher Butte parking area from OR126 (Figure 5), but the use of the parking area itself will not be affected. New left-hand turn lanes on OR126 will likely increase safety and vehicular access to both parking areas, while the new multi-use path paralleling the highway will improve pedestrian and cyclist access and present new opportunities for interpretive signage. Collectively, these minimization, mitigation, and enhancement measures are anticipated to reduce the project's impact to the FRWA to a *de minimis* level.

In the signature boxes below, please indicate your agency's concurrence with the finding that the OR126: Veneta to Eugene Project will have a *de minimis* impact to the FRWA, and email a signed copy of the

⁴ U.S. Department of Transportation, Federal Highway Administration, "Section 4(f) Properties: Parks, Recreation Area, and Refuges: Defining Criteria," *Section 4(f) Tutorial*, accessed October 21, 2021, at https://www.environment.fhwa.dot.gov/env_topics/4f_tutorial/properties_parks.aspx.

⁵ U.S. Department of Transportation, Federal Highway Administration, "Section 4(f) Properties: Parks, Recreation Area, and Refuges: Defining Criteria," *Section 4(f) Tutorial*, accessed November 2, 2021, at https://www.environment.fhwa.dot.gov/env_topics/4f_tutorial/properties_parks.aspx.

form to me at Hayli.Reff@odot.oregon.gov. If you have any questions regarding this finding or the proposed project, feel free to contact me by phone or email.

Thank you,



Hayli Reff
ODOT Architectural Historian
455 Airport Rd SE Building B, Salem, OR 97301
Email: Hayli.Reff@odot.oregon.gov
Phone: 503.986.2654

The U.S. Army Corps of Engineers, as owner of the Fern Ridge Wildlife Area, concurs that the OR126: Veneta to Eugene Project will have a *de minimis* impact to Fern Ridge Wildlife Area, a Section 4(f) property, as described in 23 CFR 774.17.

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Chief, Realty Services Branch


5 March 2024

U.S. Army Corps of Engineer Official

Title

Date

The Oregon Department of Fish and Wildlife, as manager of Fern Ridge Wildlife Area, concurs that the OR126: Veneta to Eugene Project will have a *de minimis* impact to Fern Ridge Wildlife Area, a Section 4(f) property, as described in 23 CFR 774.17.

 South Willamette Watershed Manager 1/11/2022

Oregon Department of Fish and Wildlife Official

Title

Date

Copies to:

Molly Cary, ODOT Project Manager
Daniel Ohrn, ODOT Region 2 Environmental Coordinator
Chris Bell, ODOT Cultural Resources Coordinator
Hayli Reff, ODOT Architectural Historian

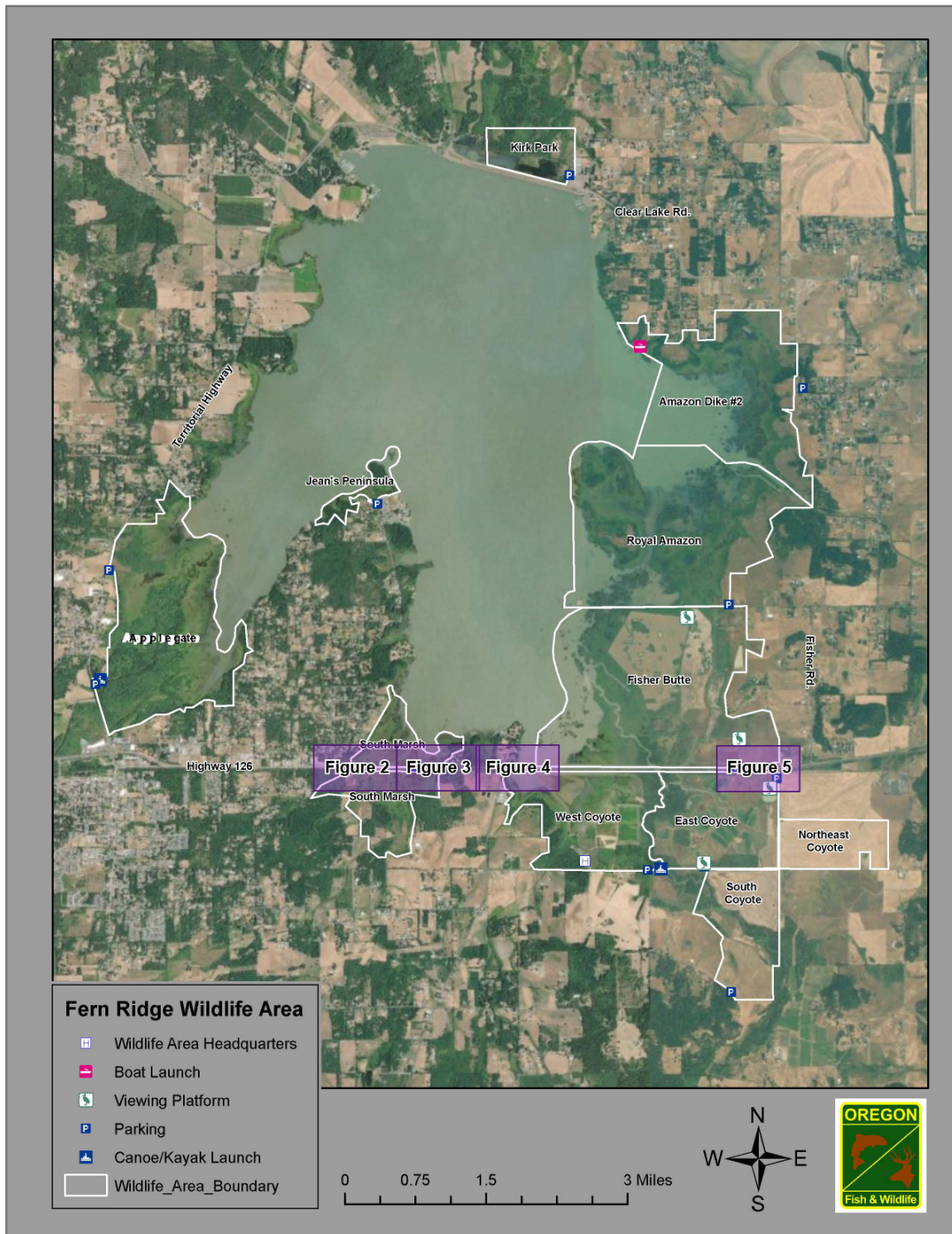


Figure 1. Boundary and extent of the FRWA, prepared by the ODFW (downloaded from myodfw.com on November 2, 2021).



Figure 2. Area of Potential Impact within the South Marsh Unit of the FRWA (DOWL, November 2021).

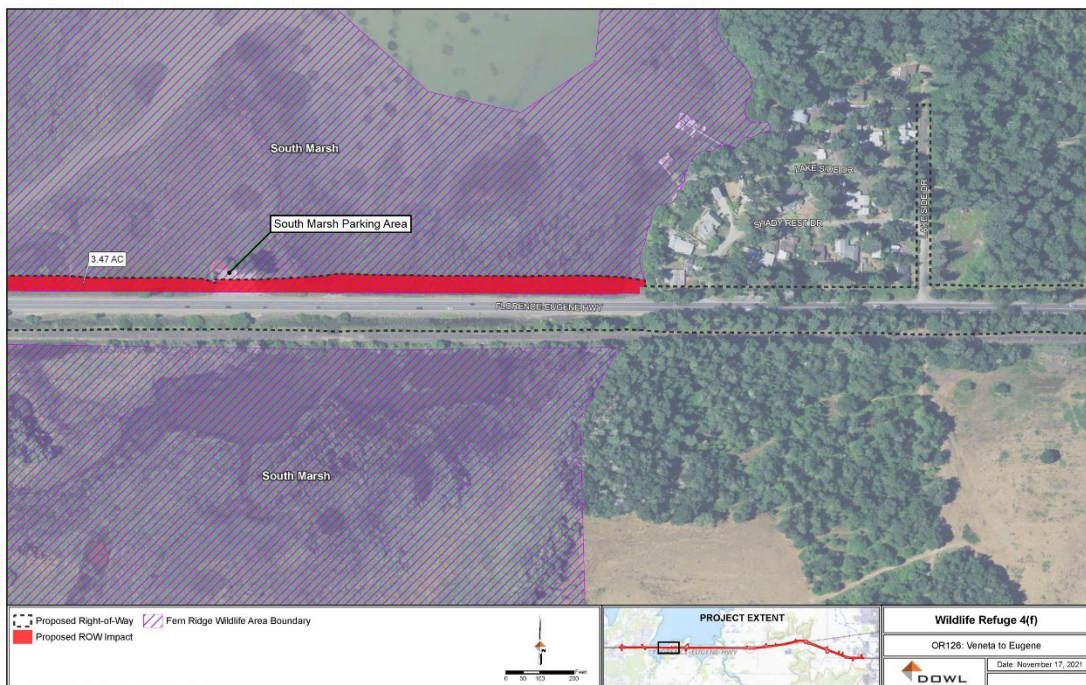


Figure 3. Area of Potential Impact within the South Marsh Unit of the FRWA (DOWL, November 2021; annotated by Architectural Resources Group, November 2021).

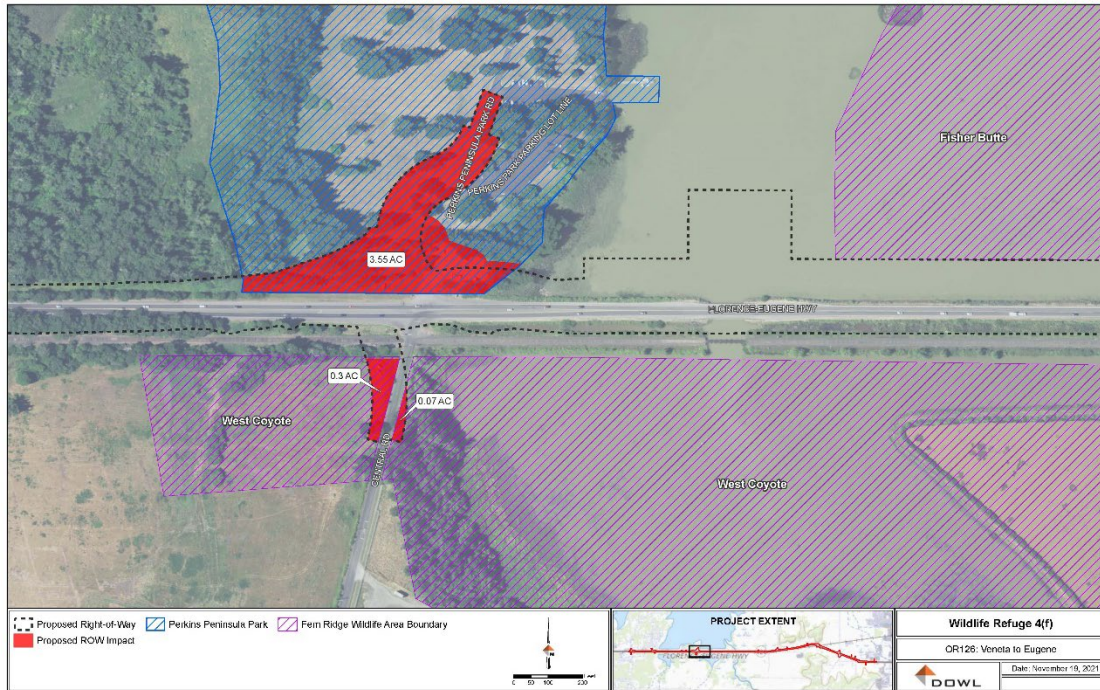


Figure 4. Area of Potential Impact within the West Coyote Unit of the FRWA (DOWL, November 2021).



Figure 5. Area of Potential Impact within the Fisher Butte Unit of the FRWA (DOWL, November 2021; annotated by Architectural Resources Group, November 2021).



Figure 6. Typical stretch of OR127, along the north side of the highway and in the South Marsh unit of the FRWA, view east (Architectural Resources Group, August 2021).



Figure 7. South Marsh parking area, view west (Architectural Resources Group, August 2021).



Figure 8. Fisher Butte parking area, view west (Architectural Resources Group, August 2021).



Figure 9. Vegetated island separating Fisher Butte parking area from OR126, view west (Architectural Resources Group, August 2021).