

U.S. DEPARTMENT OF TRANSPORTATION

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APR 25 2005

IN REPLY REFER TO

HPL.3
90.230

Ms. Marianne Dugan
Facaros & Dugan
485 E 13th Avenue
Eugene, OR 97401

RE: March 31, 2005 Letter

Dear Ms Dugan:

Thank you for your letter of March 31, 2005, regarding our December 7, 2004, letter to Governor Kulongoski. Your letter outlines several concerns that we have reviewed and we have not discovered any information that would cause us to revisit our decisions.

One of the concerns you raised was the transmittal of our letter to Governor Kulongoski. As directed by the USDOT January 2, 2002, Revised Guidance for Implementing the March 1999 Circuit Court Decision Affecting Transportation Conformity, found at http://www.fhwa.dot.gov/environment/conformity/rg0399_m.htm, USDOT provided a notice to Governor Kulongoski on December 7, 2004, that the Central Lane Metropolitan Planning Organization (MPO), faced a potential lapse on December 13, 2004. This guidance states:

“When a conformity lapse is imminent, FHWA Division Administrators and FTA Regional Administrators shall notify the Governor or the Governor’s designee immediately to inform him/her of the consequences, and potential solutions to minimize disruptions to the transportation programs in the respective nonattainment and maintenance areas.”

USDOT’s December 7, 2004, letter to Governor Kulongoski was based on a specific legal duty and was not a discretionary act. The information shared in our letter to Governor Kulongoski was not new information as the date is determined well in advance. Central Lane MPO had focused the plan update efforts with this date in mind and referenced this date throughout the update process.

In addition to the frequency requirements of the transportation conformity rule, OAR 340-252-0050, MPOs must also meet the federal transportation planning requirements of 23 CFR Part 450. Compliance with the planning regulations can trigger conformity determinations. 23 CFR 450.322 (a) specifies, “. . . The transportation plan shall be reviewed and updated at least triennially in non-attainment and maintenance areas . . .”

Prior to the December 13, 2004, conformity determination, USDOT last did a conformity determination for the regional transportation plan that was adopted in December 2001. Your letter references a Central Lane MPO conformity determination on September 26, 2002. This has no bearing on the frequency requirement because the USDOT did not take an action.



Your March 31, 2005, letter raised concerns regarding the public involvement processes. Many of the public involvement concerns previously were raised in your December 4, 2004, letter to Chair Bonny Bettman in which FHWA was copied. In response to your December 4, 2004, letter, we sent a December 7, 2004 (attached), letter to Chair Bettman providing our assessment of the public involvement processes used during the outreach efforts for the update of the 2004-2025 Regional Transportation Plan and 2005-2007 Transportation Improvement Program. In that letter, our assessment was that the processes were more than adequate and exceeded the federal transportation planning requirements.

Your March 31, 2005, letter references 23 CFR 450.316 (b)(1)(v) which requires the "... consideration and response to public input received during the planning and programming development processes". In conjunction with the Regional Transportation Plan, Central Lane MPO produced the "Regional Transportation Plan—Public Comments Received and MPO Response" document. The document provides a summary of comments received and the MPO's response to those comments. The document is available on the MPO's website: <http://www.lcog.org/mpo/rtp.html> and includes a summary of the public testimony that was received during the December 9, 2004, public hearing, as well as response to those comments.

Our review of available information indicates that throughout the update and adoption of the regional transportation plan, transportation improvement program and associated conformity determinations, Central Lane MPO followed a public involvement process that exceeds federal planning regulations. Public involvement for this process began as early as October 9, 2003, when Central Lane MPO began opening discussions about the 2025 regional transportation plan and 2005-2007 transportation improvement program with the MPO Policy Board. There are no federal regulations that require MPOs to hold public hearings before adopting these documents. However, in addition to the December 9, 2004, public hearing that your letter references, the Central Lane MPO held an additional public hearing on November 18, 2004. We know of no federal regulations that would prohibit the Chair from limiting testimony. After reviewing the concerns raised in your March 31, 2005, letter we do not find information that would cause us to revisit earlier decisions.

We have included a copy of the March 23, 2005, USDOT air quality conformity determination for the 2005-2007 transportation improvement program. Our December 7, 2004, letter to Governor Kulongski, and our conformity determinations made on December 13, 2004, and March 23, 2005, were coordinated with the United States Environmental Protection Agency's Region 10 Office. Given that we have no information that causes us to believe our actions were inappropriate, we do not plan to withdraw, reverse or defer our December 7, 2004, letter to Governor Kulongski or related air quality conformity determinations.

As part of our duty to provide planning oversight, the USDOT (FHWA and FTA) conducts certification reviews of MPOs that are classified as transportation management areas (TMAs) every three years. The Central Lane MPO's next certification review will be conducted in 2006. As an integral part of this review, a public meeting will be held regarding MPO activities. We will provide you advance notice of the certification review and ask that you forward this information to your clients. We encourage you to participate and comment on the planning and public involvement processes. Written comments will also be accepted, if your clients or you are unable to attend.

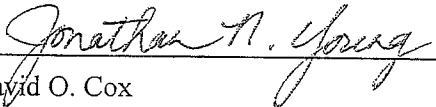
Central Lane MPO is reviewing their public involvement processes through the Citizen Advisory Committee. The MPO expects to adopt a public involvement plan before the end of this calendar year. We encourage you to contact the Central Lane MPO and take advantage of the opportunity to shape future public involvement processes in your area.


We also would like to ensure that you are aware that the Central Lane MPO is currently in the process of updating the 2004-2025 Regional Transportation Plan. By mid-2006, the MPO expects to have an

updated RTP with a planning horizon to 2030. Planning assumptions, community direction and other related decisions regarding the 2030 RTP will be made throughout this planning period.

We encourage you to engage early in the continuing, cooperative and comprehensive transportation planning process.

Sincerely,


for David O. Cox
Division Administrator
Federal Highway Administration


R. F. Krochalis
Regional Administrator
Federal Transit Administration

Attachments:

December 7, 2004, FHWA letter to Chair Bettman
March 23, 2005, USDOT Conformity Determination 2005-2007 TIP

cc:

Governor Kulongoski
FHWA (Lance Hanf)
EPA (Wayne Elson, Region 10)
ODOT (Bruce Warner, Director)
(Jeff Scheick, Region 2)
(Steven Leep, Funds & Grants)
(Tom Boyatt, Region 2)
(Craig Greenleaf, TDD)
(Marina Orlando, Environmental)
OTC (Randy Pape)
LRAPA (Ralph Johnston)
DEQ (Stephanie Hallock)
(Dave Nordberg)
LTD (Ken Hamm, General Manager)
CLMPO (Anne Ballew, Policy Committee Chair)
(Bobby Green, Policy Committee Vice-Chair)
(Tom Stinchfield, Transportation Planning Committee)
(Tom Schwetz, Transportation Planning Manager)

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