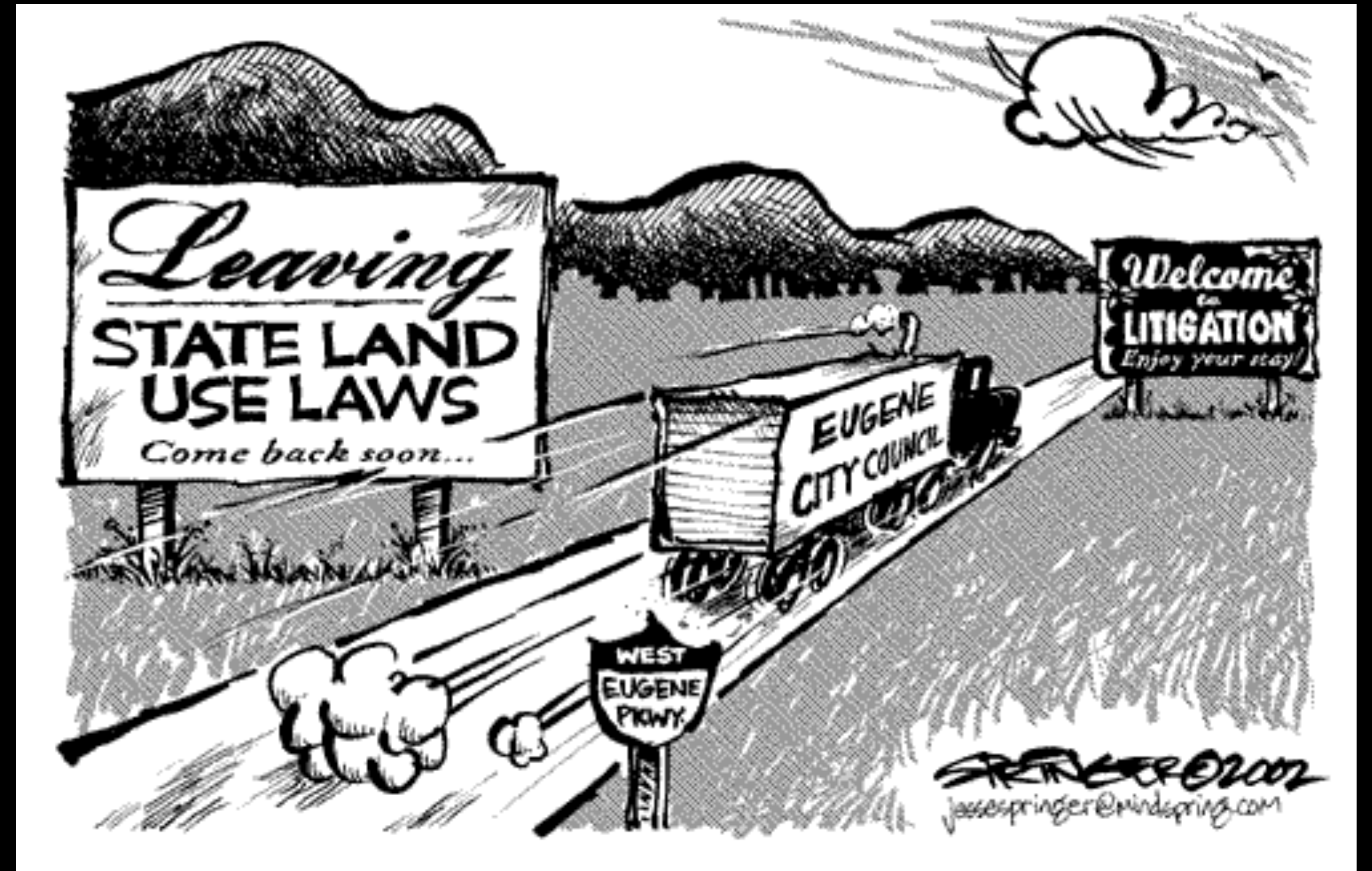


# W.E.T.L.A.N.D.S. vs. FEDERAL HIGHWAY ADMINISTRATION

**WEST EUGENE PORKWAY was one of the most illegal highways ever proposed.**

- ❖ **never filed, FHWA withdrew Environmental Impact Statement, selected No Build in 2007**
  - ❖ **National Environmental Policy Act (NEPA):** new EIS needed (not Supplemental Draft EIS)
  - ❖ **cooperating agencies** (BLM, Army Corps of Engineers) not involved in EIS scoping that was done in 1985 before BLM bought land in west Eugene
  - ❖ **Section 4(f)** of the 1966 Transportation Act protects parks from paving: avoidance needed, not mitigation. Overton Park Supreme Court decision (1971) [www.peaktraffic.org/4f.html](http://www.peaktraffic.org/4f.html)
  - ❖ **illegal segmentation:** lack of independent utility, logical termini (Veneta and I-105)
  - ❖ **Brackenridge Park, San Antonio, TX:** The Brackenridge Park freeway fight was a major inspiration for enacting 4(f). Named Individual Members of the San Antonio Conservation Society is a precedent about failure to consider full project to avoid 4(f) analysis.
  - ❖ **failure to meet “purpose and need”** WEP traffic studies were flawed.
  - ❖ **Endangered Species Act:** “license to kill” plants, butterflies, wet prairie critical habitat
  - ❖ **Clean Water Act:** Section 404 wetland destruction permits
  - ❖ **BLM’s Land and Water Conservation Fund:** property cannot be used for road construction
  - ❖ **Environmental Justice:** eastern terminus traffic impact on Whitaker neighborhood
  - ❖ **Peak Energy and Peak Traffic:** traffic projections assume endless growth of oil supplies
  - ❖ **Peak Energy and Peak Traffic are “new circumstances” that require a new Supplemental Draft EIS. 40 CFR 1502.9, 23 CFR 771.130. A precedent based on Peak Energy and Traffic for long term traffic analysis could impact about a trillion dollars of planned highway expansions from coast to coast. We need transportation triage to mitigate peak energy and climate chaos.**
- Mark Robinowitz - [PeakChoice.org](http://PeakChoice.org) - [PeakTraffic.org](http://PeakTraffic.org) - [SustainEugene.org](http://SustainEugene.org)

**WETLANDS was West Eugene Transportation, Land and Neighborhood Design Solutions**



This cartoon shows the main misconception about the WEP's legality - that it is a violation of State land use laws and City policies allegedly solving climate chaos. Oregon's laws are thought to be powerful deterrents to paving projects, especially those that go outside an Urban Growth Boundary (such as WEP). But they were irrelevant for the WEP. State planners granted exemptions to Oregon's land use laws, even when ODOT changed the route, and the complaint to the Land Use Board of Appeals was unsuccessful.

Instead, the real legal road blocks were federal environmental laws. WEP was a Federal project not directly subject to City, County or State decisions.

# WEP Environmental Impact Statement

The National Environmental Policy Act (NEPA), signed by President Nixon in 1970, requires federal decisions that might damage the environment to disclose plans before approval, offer a range of alternatives and seek public input. This is done through Environmental Impact Statements, or for smaller projects, an Environmental Assessment.

The Roosevelt Freeway never started a NEPA process because the initial concept predated the law by almost two decades and Eugene's other highways - I-5, I-105, Delta, Beltline - were bigger priorities.

In 1972, Roosevelt Freeway was stopped by community pressure after I-105 construction decimated part of Whiteaker when the first segment was built to First street.

**The formal NEPA process started in 1985 with publication of a Draft EIS.**

This was also at the time the ecological significance of rare habitat in the wetlands was beginning to be understood (it was also when the Cascadia Subduction Zone was discovered, a different constraint on the future of the region).

**In 1986, a Supplemental DEIS was published.** SDEIS is required when an initial DEIS is considered officially insufficient, in other words, the agency will lose in court when the citizens group sues them to stop the road. Since WEP's approval was getting turbulent, proponents put a measure on the City ballot in 1986 to ask voters if they liked the WEP or not. 80% voted yes, but it was an advisory vote - local votes do not dictate federal policies (on highway approvals or any other policy).

**In 1990, the Federal Highway Administration approved a Final EIS and Record of Decision.** By that time, however, the BLM had begun parcels to create the West Eugene Wetlands project. Many years of bureaucratic objections from different agencies kept the project on hold.

In 1996, when it seemed likely that construction was imminent, Barbara Kelley of Save Our ecoSystems filed suit on June 19, 1996. Her lawsuit was never heard because FHWA withdrew their approval (they knew that they would probably lose in court). That is lightning speed for federal court.

**A second SDEIS and Section 4(f) analysis was published in 1997.**

**My first encounter with the WEP was at a 1999 ODOT public information session.** I looked at the SDEIS, the maps on the wall, the seeming inevitability of the decision and went, "not again!" A few years previously, when I lived in Maryland I played an important role helping force withdrawal of a Draft EIS for an 18 mile long Outer Beltway segment called Inter County Connector. It had huge Section 4(f) problems, wetlands destructions, rare species and neighborhood impacts. We stalled that project but it came back under Bush the Lesser and was built by the Obama Biden administration. [www.peaktraffic.org/maryland.html](http://www.peaktraffic.org/maryland.html) has some details.

WEP was a top priority of the City and County but neither appropriated anything toward construction costs. Knowing that the decision would be federal and not local made it easier to watchdog City Council work sessions. Their support did not automatically determine the outcome and WEP had every possible legal road block under federal law.

At the height of the WEP discussions, the FHWA warned the City they needed to follow Federal law to avoid losing in court, but their advice was mostly ignored. Mayor Torrey and his allies used denial and scapegoating to try to force the project's approval, claiming the money was there, ignoring legal problems and keeping quiet that it was not a City decision.

Mayor Torrey tried to blame the FHWA for changing the laws at the last minute, but the law prohibiting segmentation was signed by President Nixon, and the fiscal constraint law was enacted in 1991.

**SustainEugene.org**  
**greenwash is sustain-a-bull**

# West Eugene Charette

June 18 - 19, 2001

## City - County - ODOT - FHWA - BLM a summit to rescue the WEP that concluded No Build

In June 2001, the City, County, State and Federal governments held a two day summit to try to rescue the failing WEP. Most participants were pro-porkway, yet they concluded the highway could not be built and should work on an alternative.

Citizen advocates against the WEP were not allowed to participate in the event, but I was tolerated to be in the room to observe their discussion.

Federal Judge Michael Hogan was the emcee of this event. He had a distinguished record ruling against against environmental lawsuits. I asked him during a break if it was appropriate for him to run an event that could be litigated in his courtroom. He told me he would recuse himself.

Years later, Eugene Mayor Kitty Piercy (who was not Mayor in 2001), told me this event never happened. (I was there and I don't recall her being present.). She further claimed that No Build had never been agreed to by an intergovernmental meeting. She was against the WEP but also wanted the public credit for having stopped it. The City Council, under her leadership, voted to remove it from City plans, a necessary step for cancellation — but this happened after ODOT and Federal Highway had conceded defeat.

There are cases of FHWA approving highways over local governments objecting and FHWA rejecting projects even though a local government wants it. They prefer everyone aligned together but it is not always possible.

The No Build decision was made by FHWA in 2007.

### County

1. There is a role for the county in ongoing coordination to assure the interests of West Lane County are being served, but not a large role, since the roads are mainly under the jurisdiction of the city or the state.
2. County participants cannot recommend a commitment of County funds based on what they have heard to date.

### DLCD

1. Would consider funding an integrated land use/transportation study. DLCD encourages the city to submit an application.

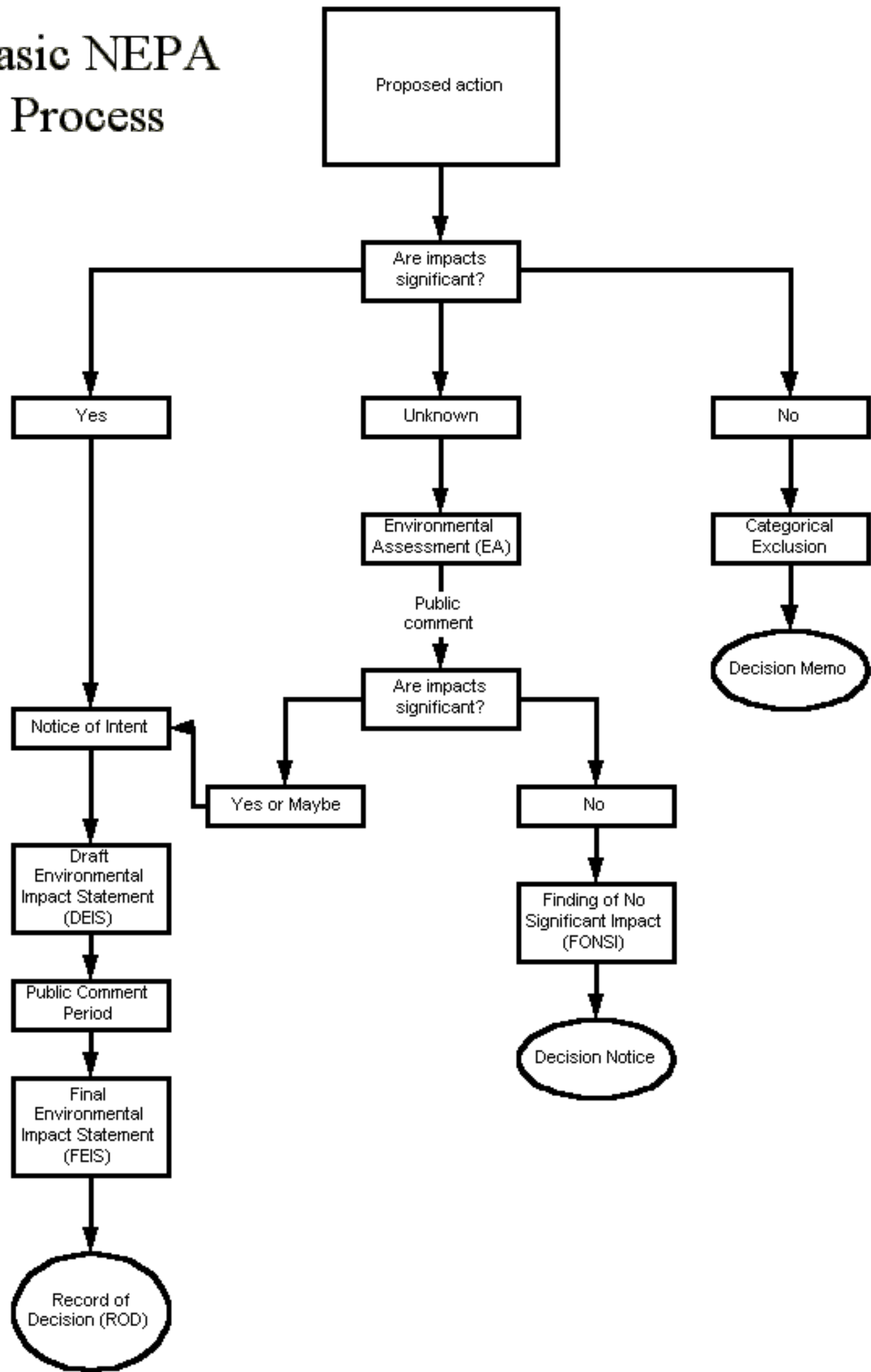
### ODOT

1. It cannot commit to keep the \$17 Million allocated to the WEP Unit 1 in West Eugene or even in Lane County. It will need to reallocate this money by October, unless an acceptable project is developed for this area.
2. Proceed with preserving the function of West 11<sup>th</sup> Avenue (OR 126) as an expressway west of Beltline
3. Finish Beltline Phase 3 improvements to West 11<sup>th</sup> Avenue
4. Close out West Eugene Parkway Environmental Impact Statement with "No-Build" as the preferred solution.
5. If it could see that there is agreement on an overall transportation solution in the area, ODOT would consider contributing funding to finalize this solution and assist in carrying it forward, in partnership with the city and county.
6. Get out the materials from Charrette to the participants

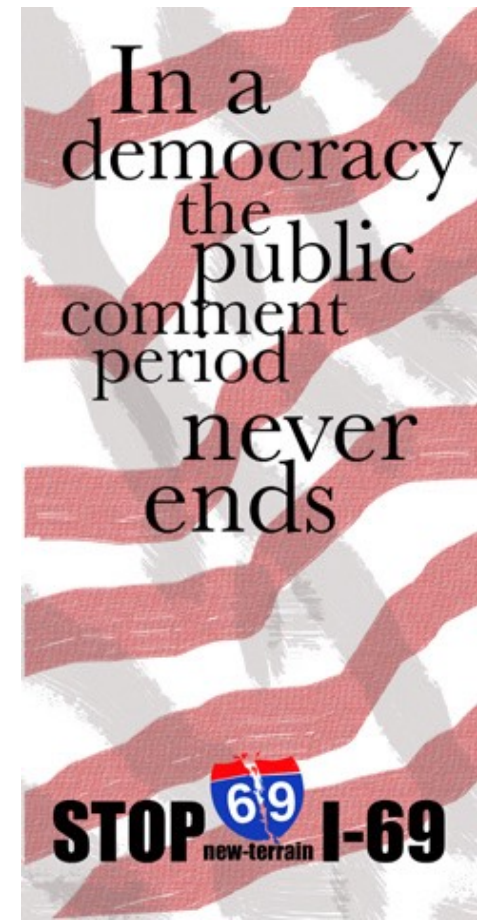
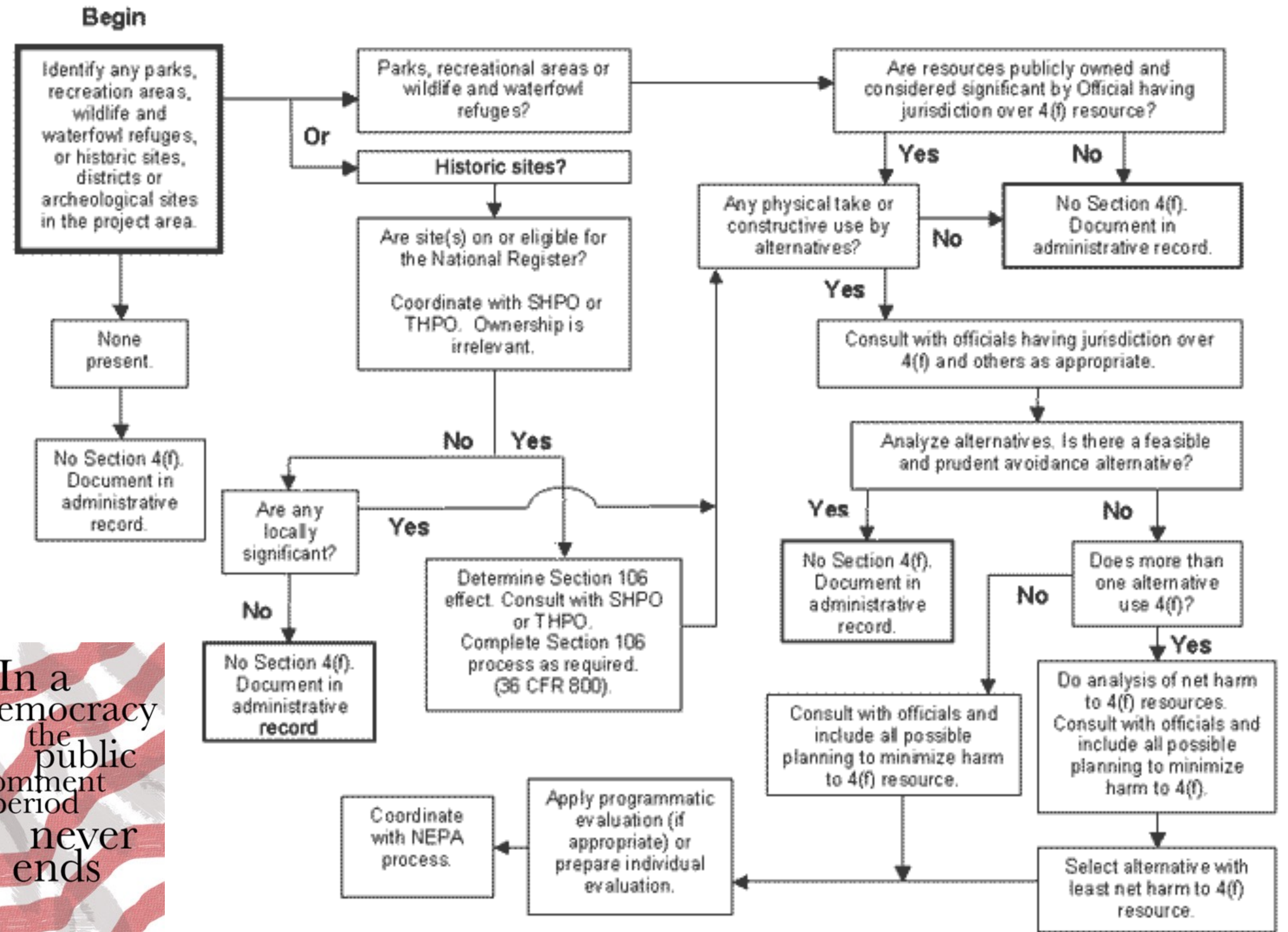
### City of Eugene

1. Take responsibility for non-state parts of system
2. Take the story of the results of the Charrette back to the entire council for discussion.
3. Work with the County on non-state parts of the transportation system
4. Make some significant decision by October 1 to show ODOT they are moving forward, in order to preserve the funds previously allocated to the WEP Unit 1 for the West Eugene area.
5. Find money to do analysis of appropriate parts of the "solutions" groups (see list above).
6. Get the draft Problem Statement out to community for comment and revision.

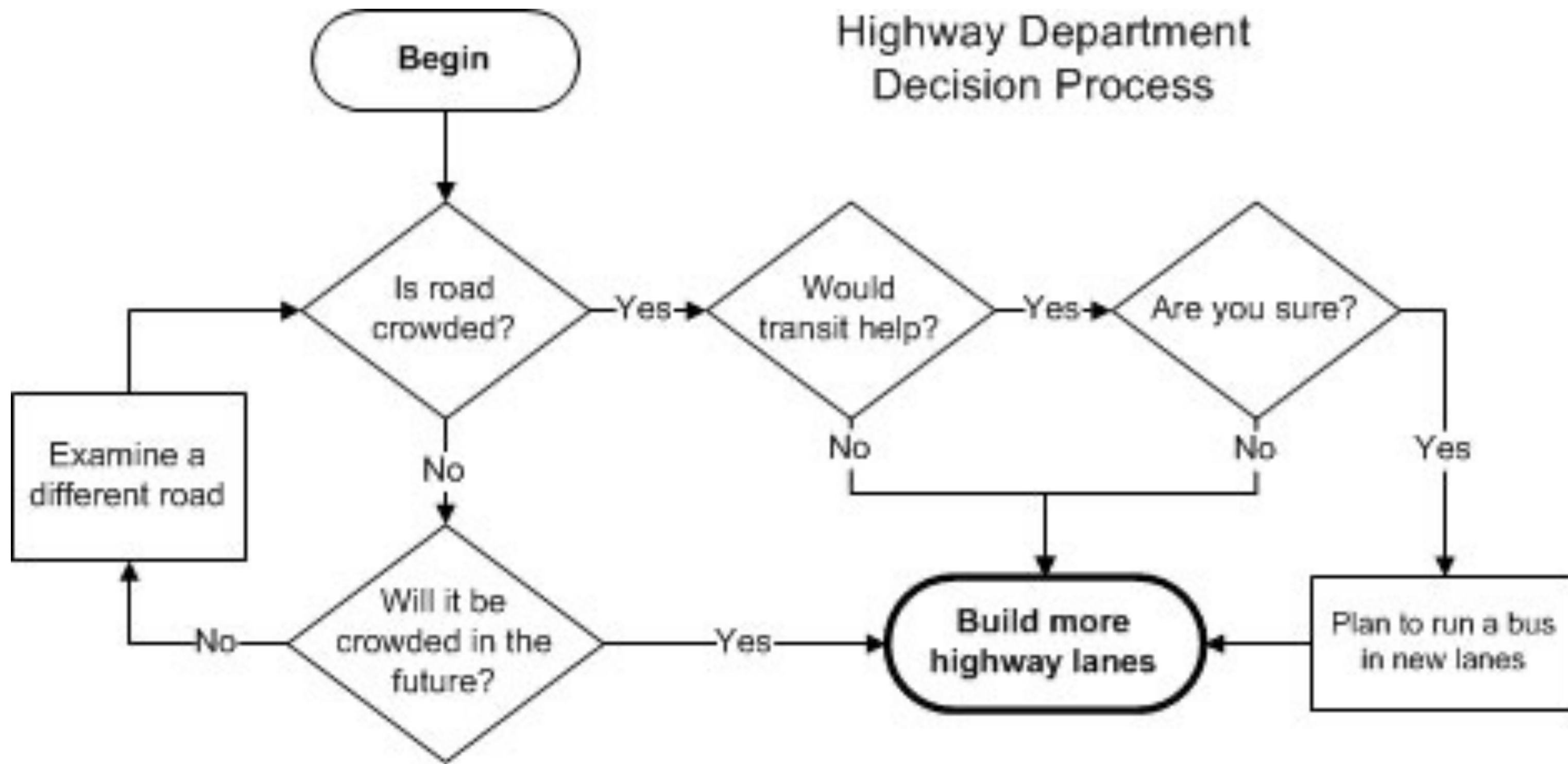
# Basic NEPA Process



# Section 4(f) analysis



Stop I-69 "new terrain" graphic from opponents in southwest Indiana. Officially opposed by City Council of Bloomington. It was approved and built by the Obama Biden administration. The full, future I-69 is to run from Canada to Mexico, a "NAFTA Superhighway."




It is no  
measure of  
health to be  
well adjusted  
to a profoundly  
sick society

*~Jiddu Krishnamurti*

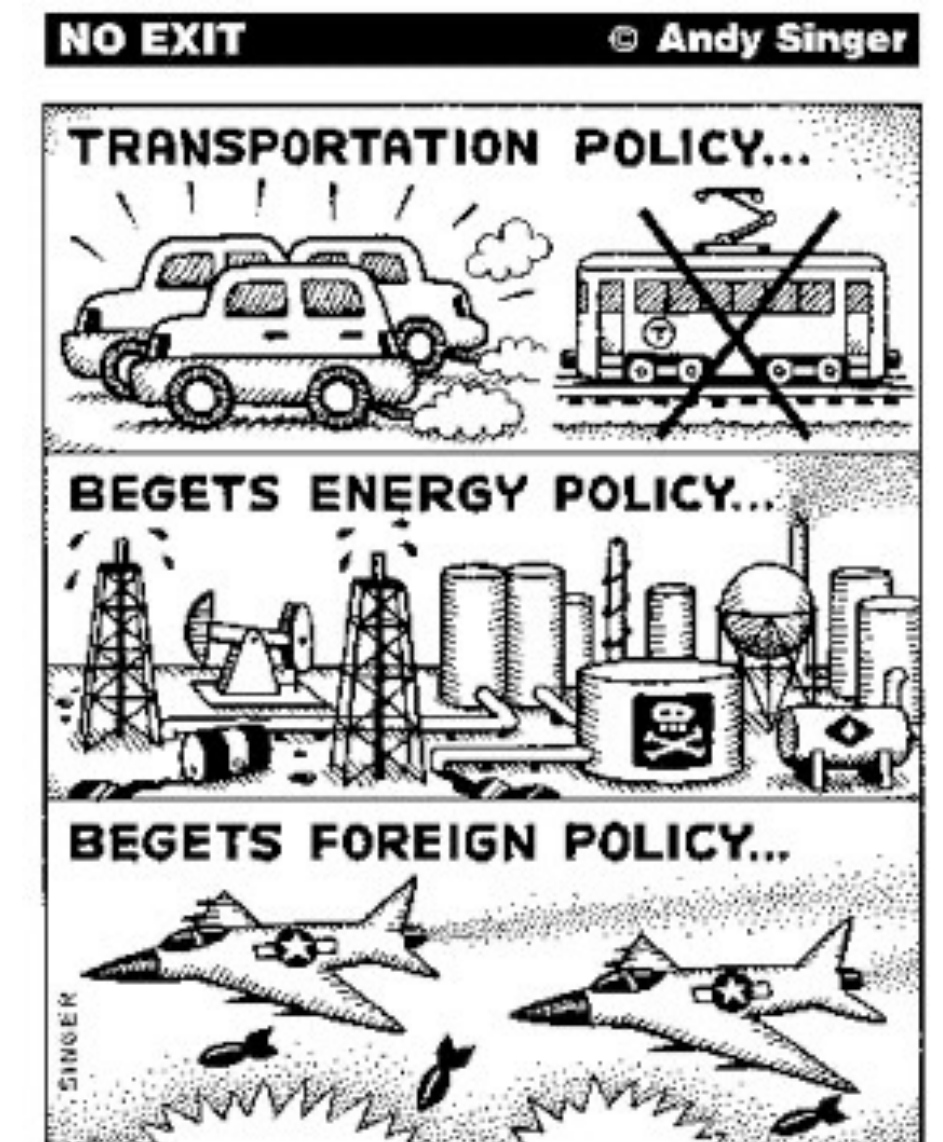


The cost  
of sanity in  
this society,  
is a certain  
level of  
alienation.

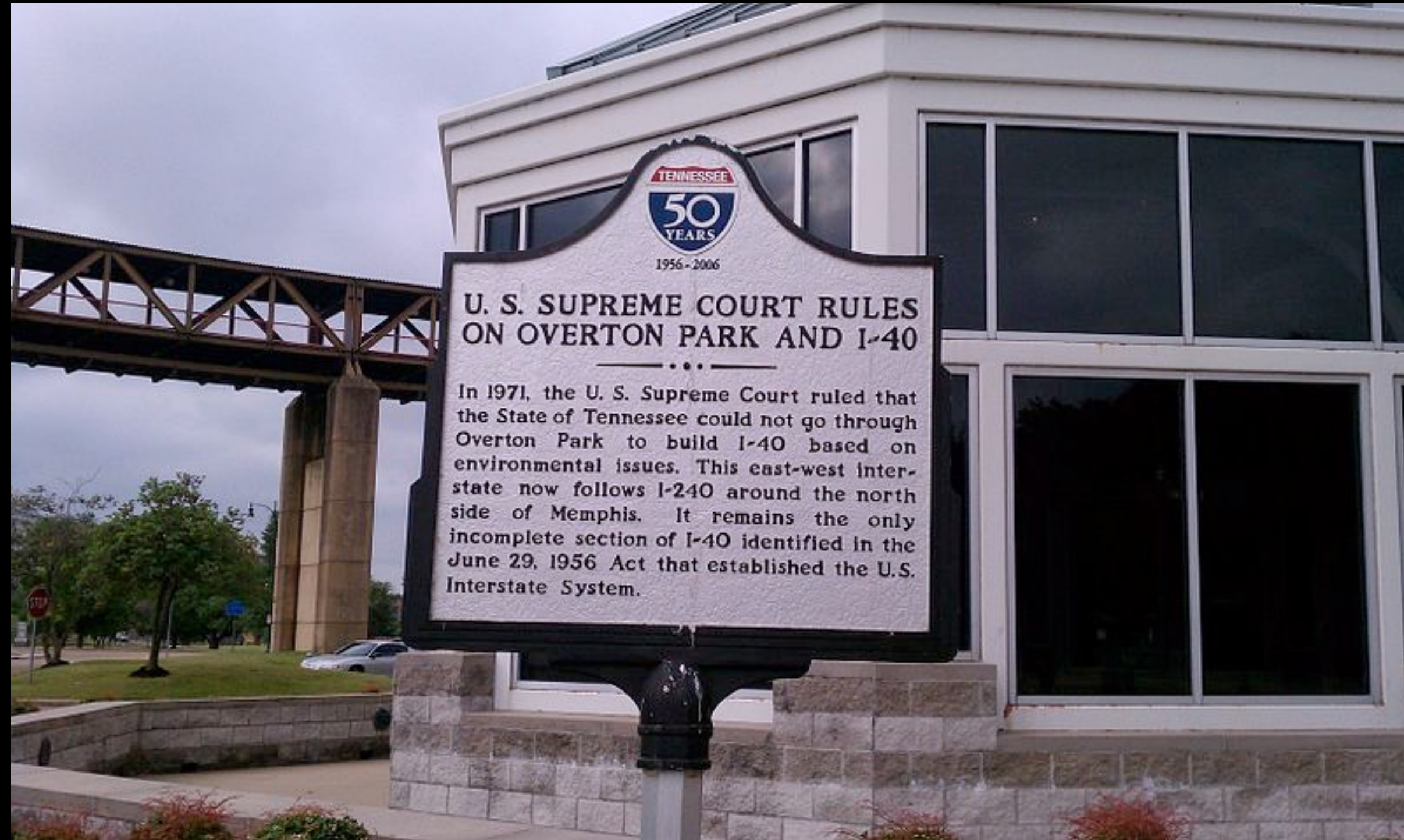
Terence McKenna



HIGHER PERSPECTIVE



## Section 4(f) of the 1966 Transportation Act protects parks from paving



plaque in Memphis, Tennessee commemorating cancelation of Interstate 40 through Overton Park.

In 1971, the Supreme Court's Overton Park decision upheld "Section 4(f)," one of their most important environmental rulings.

the Secretary [of Transportation] shall not approve any program or project which requires the use of any publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from an historic site of national, State, or local significance as so determined by such officials unless (1) there is no feasible and prudent alternative to the use of such land, and (2) such program includes all possible planning to minimize harm to such park, recreational area, wildlife and waterfowl refuge, or historic site resulting from such use."

– 82 Stat. 824, 49 U.S.C. 1653 (f)

"Next to the National Environmental Policy Act (NEPA), Section 4(f) has been the most frequently litigated environmental statute in the Federal Highway Program.

"Section 4(f) has been the most frequent cause of court injunctions halting highway projects."

-- Maryland State Highway Administration, Section 4(f) interactive training, "legal overview," (2003)

### Thou Shall Not Build Federal Highways Through Parks

Section 4(f) of the 1966 Transportation Act prevented the West Eugene Parkway.

In 2000, I caught ODOT trying to remove 4(f) from the WEP. ODOT had asked the Oregon Department of Justice to write a memo claiming 4(f) did not apply. The 1997 Supplemental Draft Environmental Impact Statement (SDEIS) had looked at 4(f), something previously ignored, and 4(f) is a powerful tool that can block bulldozers. The National Environmental Policy Act, which requires EISs, merely requires disclosure of damage. 4(f) requires avoidance of the damage.

When I reminded ODOT that 4(f) did apply, according to their SDEIS, and that the requirements for applying 4(f) were relevant to the WEP, they started treating me with a lot more respect. Unfortunately, the "environmental leaders" in Eugene who wanted the credit and public adoration for stopping the WEP never seemed interested in 4(f), perhaps because of unfamiliarity with the law, perhaps because they were not interested in doing detailed research, and perhaps because they did not want to share credit for anti-WEP efforts with me (since my politics were not liberal Democrat and therefore anathema to them).

Fortunately, FHWA, ODOT and BLM realized that 4(f) wasn't going away as a limitation. The BLM renamed part of their properties "Bertelsen Nature Park" as an effort to help remove any debate about whether 4(f) applied. FHWA and ODOT quietly conceded 4(f) was an insurmountable road block.

None of the articles written by the Register Guard nor the Eugene Weekly ever discussed Section 4(f), since they ignored the fact the WEP was a Federal project, not a City of Eugene decision. I had letters to the editor and op-eds in both publications that mentioned these facts, but they did not inspire them to mention the Federal aspect in their articles.

Detailed discussion about Section 4(f), my favorite federal law, is at [www.PeakTraffic.org/4f.html](http://www.PeakTraffic.org/4f.html)

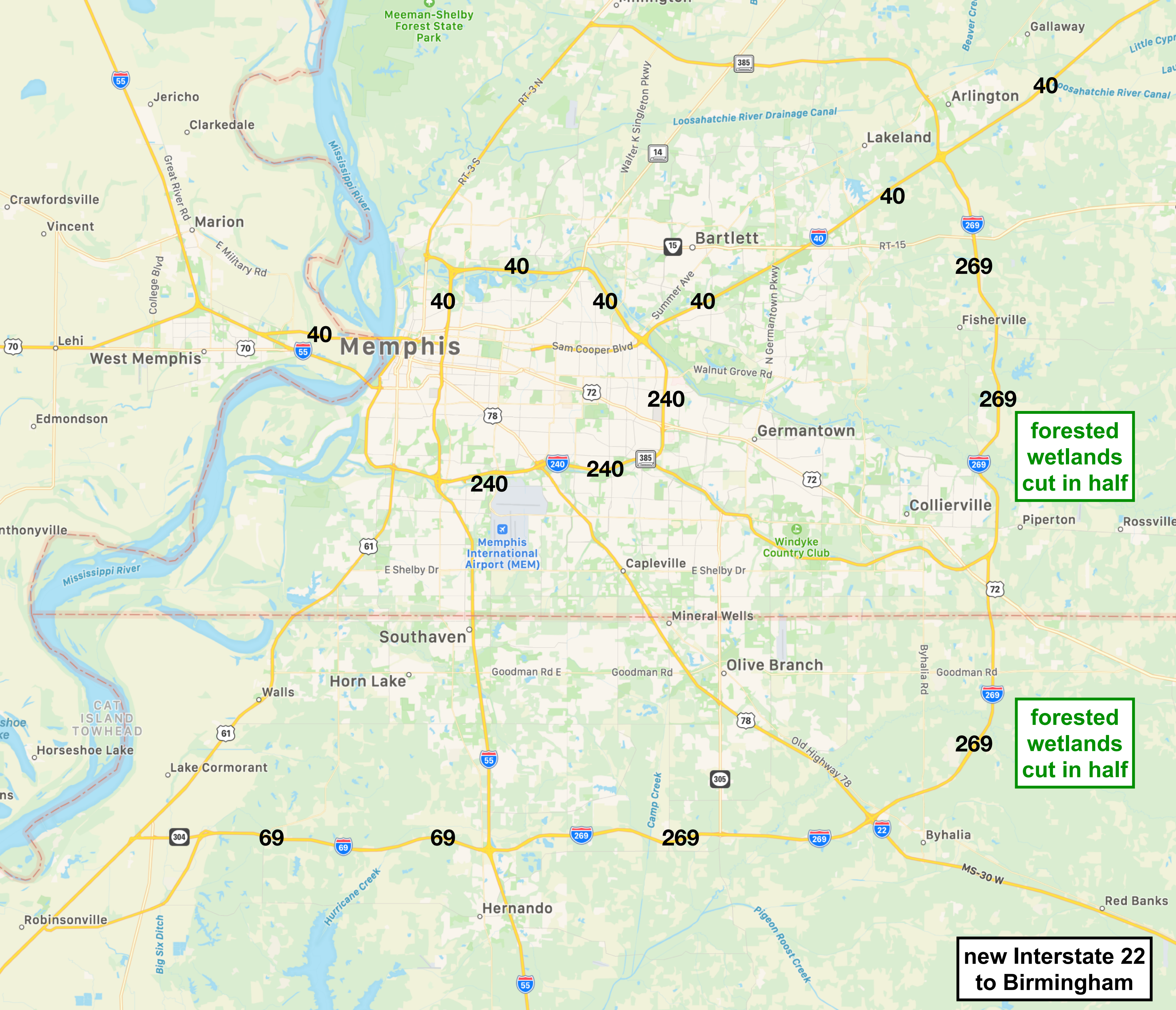
**interstate 40  
built to border of Overton park  
now not called I-40**

**US 78 new I-22  
to Birmingham, AL**





**Memphis Outer Beltway**  
recently completed  
I-269 ties into Interstate 69  
the "NAFTA superhighway"  
MI IN KY TN MS AR LA TX



forested  
wetlands  
cut in half

forested  
wetlands  
cut in half

**new Interstate 22  
to Birmingham**



I-69 Location Study  
El Dorado to McGehee

**I-69 CORRIDOR**

SCALE IN MILES

## not suitable for PIELC: Public Interest Environmental Law Conference refused presentation about Section 4(f) and lessons learned protecting West Eugene Wetlands

Between 2004 and 2010, I co-organized panel presentations about **ecological implications of fossil energy depletion** at the annual Public Interest Environmental Law Conference at the University of Oregon Law School. The conference scheduled many panels simultaneously, so these presentations were not the dominant paradigm of the event but they attracted lively participation. They were the only discussions at those conferences about limits to growth, how decreases of conventional fossil fuels were leading to more toxic practices (fracking, tar sands), economic, foreign policy and military implications of the “musical chairs” approach to controlling the last reserves, and ways that learning to live well with less energy could be encouraged on household, community and global levels.

But in late 2010, I committed the unforgiveable sin of opposing nuclear power - the most dangerous way to boil water - at a Law School speech by climatologist James Hansen. He is justly famous for being a leading voice calling attention to the dangers of global warming. I remember hearing his 1988 testimony to Congress which was his first entrance onto the global media stage and was impressed by his clarity. It was also good timing his testimony was on a hot summer smoggy day in D.C. In 2006, I heard Hansen speak at the “Beyond Peak” conference at George Washington University where he gave a great summary of the science behind these warnings and prospects for ecological collapse if we continue to choose business as usual. But **in 2008, Hansen was persuaded that nuclear energy was actually the solution to climate change, and with the fiery energy of the newly converted has become an atomic zealot.** He sent a letter to incoming President Obama saying that people who don't want to escalate the use of this ultrahazardous technology are the biggest threat to Earth's climate, since we supposedly will force the use of more coal (which has peaked in terms of its potential mining and burning in the US). Using less is not on his agenda.

In the next several years, my panel requests somehow never got approved. At first it seemed like an oversight since the conference gets more requests than they can honor. However, after several rejections - and worse, no approval of any other similar panels - I decided to test the system. I requested a space for a panel about Section 4(f) - the 1966 federal law that prohibits federal aid highways through parks - and how I had used it to prevent the West Eugene Parkway through a federal nature preserve with critical habitat for federally listed endangered species. Surely the legal eagles at PIELC would allow that discussion? Nope.

After that year's conference I had the opportunity to ask a conference organizer about this oversight. He said that since I'm not a lawyer, therefore I would not be an appropriate choice to organize a panel presentation about anything. After I stopped laughing at his response, I reminded him they welcome anarchists who advocate property destruction to give presentations and the real reason was likely challenging Hansen, both in 2010 and later when he was a PIELC keynoter. A different co-organizer quietly apologized to me for this pettiness, an example of “cancel” culture.

When I first attended PIELC in 1999, it was a large and significant legal, activist and cultural event attracting thousands of people. The most famous keynoter each year was David Brower, one of the giants of modern environmentalism, who made the Sierra Club into a powerful force in the 1960s (and then he was kicked out for being too effective). He went on to co-found Friends of the Earth and later Earth Island Institute, which spawned numerous projects big and small all over the planet. His last appearance was in 2000, when he said **at our best the environmental movement has slowed down the rate that things got worse and that was not good enough for our survival.** Brower died that fall, a couple days before the Bush v. Gore election (he voted absentee for Nader from his death bed).

Among many other concerns, Brower raised alarms about the dangers of nuclear power, helping prevent reactors on the San Andreas fault just north of San Francisco and convincing many environmental groups to oppose this supposedly “fossil free” technology.

Nuclear energy makes climate change worse: reactors use huge amounts of fossil fuels to build and operate and emit heat. details at [www.PeakChoice.org/green-new-deal.html](http://www.PeakChoice.org/green-new-deal.html)

Another UO law school project is **Our Children's Trust**, a lawsuit demanding the federal government adopt a plan to end climate change so kids can have a future. And what plan do they seek? The graphic on the right is from a technical report done for OCT and **it considers nuclear reactors to be “zero carbon”** despite the enormous energy requirements of reactor operation, the nuclear fuel cycle from mining to enrichment to fuel fabrication, and the impossible requirement to keep deadly nuclear wastes isolated from the biosphere longer than civilization has existed. So this partially explains why PIELC is touchy about anti-nuclear activists who say more reactors would be a disaster.

In 2019, the last PIELC conference before Covid, a keynote speaker was Norris McDonald of the African American Environmentalist Organization. He is a skill for nuclear power and other toxic industries. PIELC states they are allies to indigenous campaigns against pollution but the conference seems oblivious to how most of the uranium mining in the US has been done on Native lands (especially in the Four Corners region).

“Compromise is often necessary, but it ought not to originate with environmental leaders. Our role is to hold fast to what we believe is right, to fight for it, to find allies, and to adduce all possible arguments for our cause. If we cannot find enough vigor in us or our friends to win, then let someone else propose the compromise, which we must then work hard to coax our way. We thus become a nucleus around which activists can build and function.”  
— David Brower



Legendary anti-nuclear activists Lloyd Marbet (red shirt) and Chuck Johnson (dark suit) talking with James Hansen at UO Law School, PIELC conference)

### Our Children's Trust's consultant

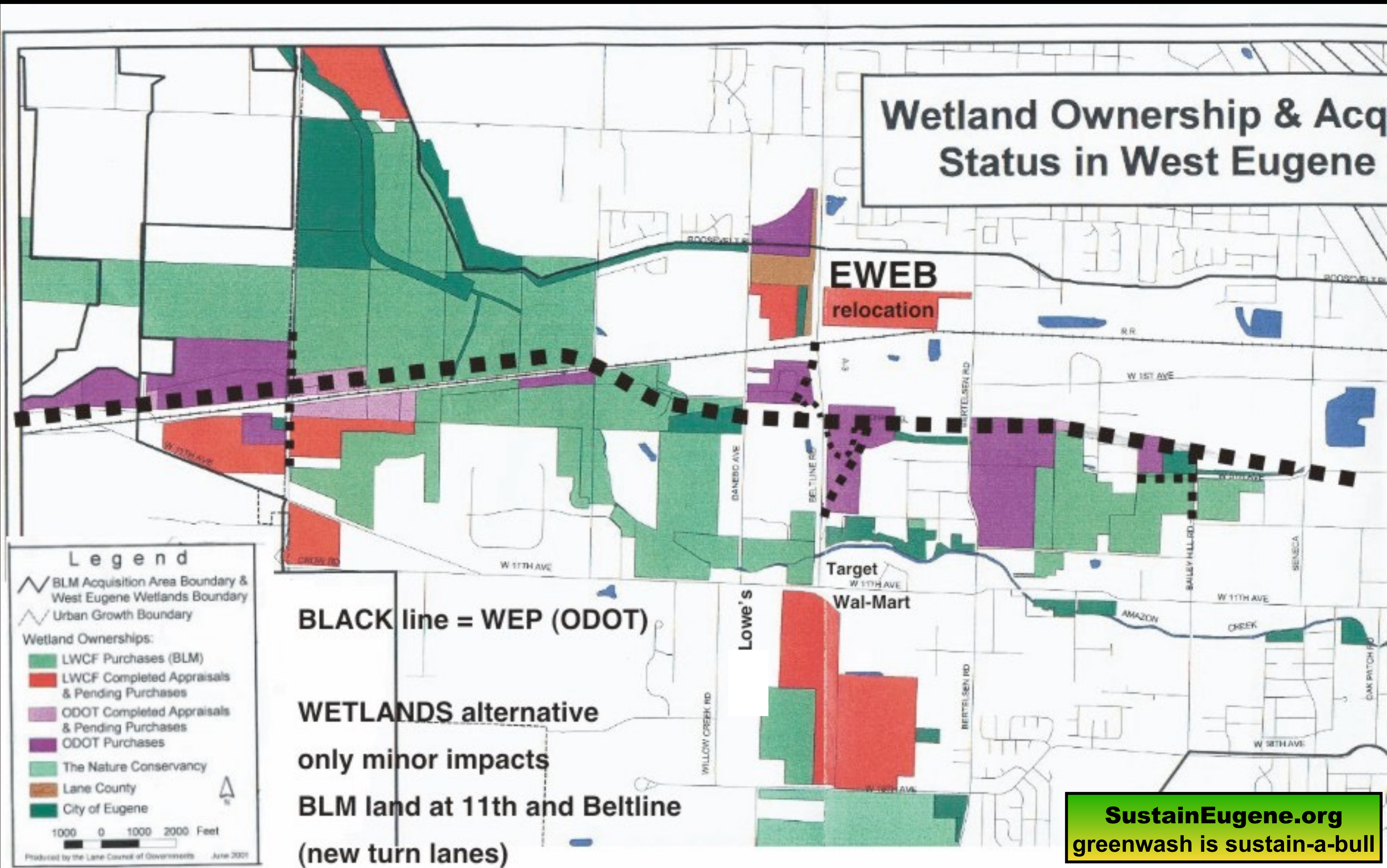
350 PPM PATHWAYS  
FOR THE UNITED STATES  
May 8, 2019



EVOLVED  
ENERGY  
RESEARCH

- **Maintain nuclear** – As in the previous decade, continue to maintain nuclear where safe to do so.

balancing costs when installing further wind and solar, dispatchable zero-carbon technologies such a nuclear are highly competitive.



This 2002 map from Lane Council of Governments shows who owns what in the west Eugene wetlands. The BLM lands are in light green and were bought with Land and Water Conservation Funds, which cannot be used for non-conservation purposes (such as highway construction). The 1997 Supplemental Draft EIS admitted these properties are subject to Section 4(f) protection. These are the parcels that ODOT and FHWA tried to claim were not covered by the law (since the highway would be virtually impossible if 4(f) had to be included in the analysis.) City land is in dark green (note the two parcels in the path). ODOT land is in purple. Red shows land that BLM wants to buy (they have bought the parcel south and west of Wal-Mart). Brown is Lane County owned. Very light green (at the bottom of the map) is The Nature Conservancy.

**wet prairie in WEP wrong of way  
one thousandth of this habitat  
remains in the Willamette Valley**

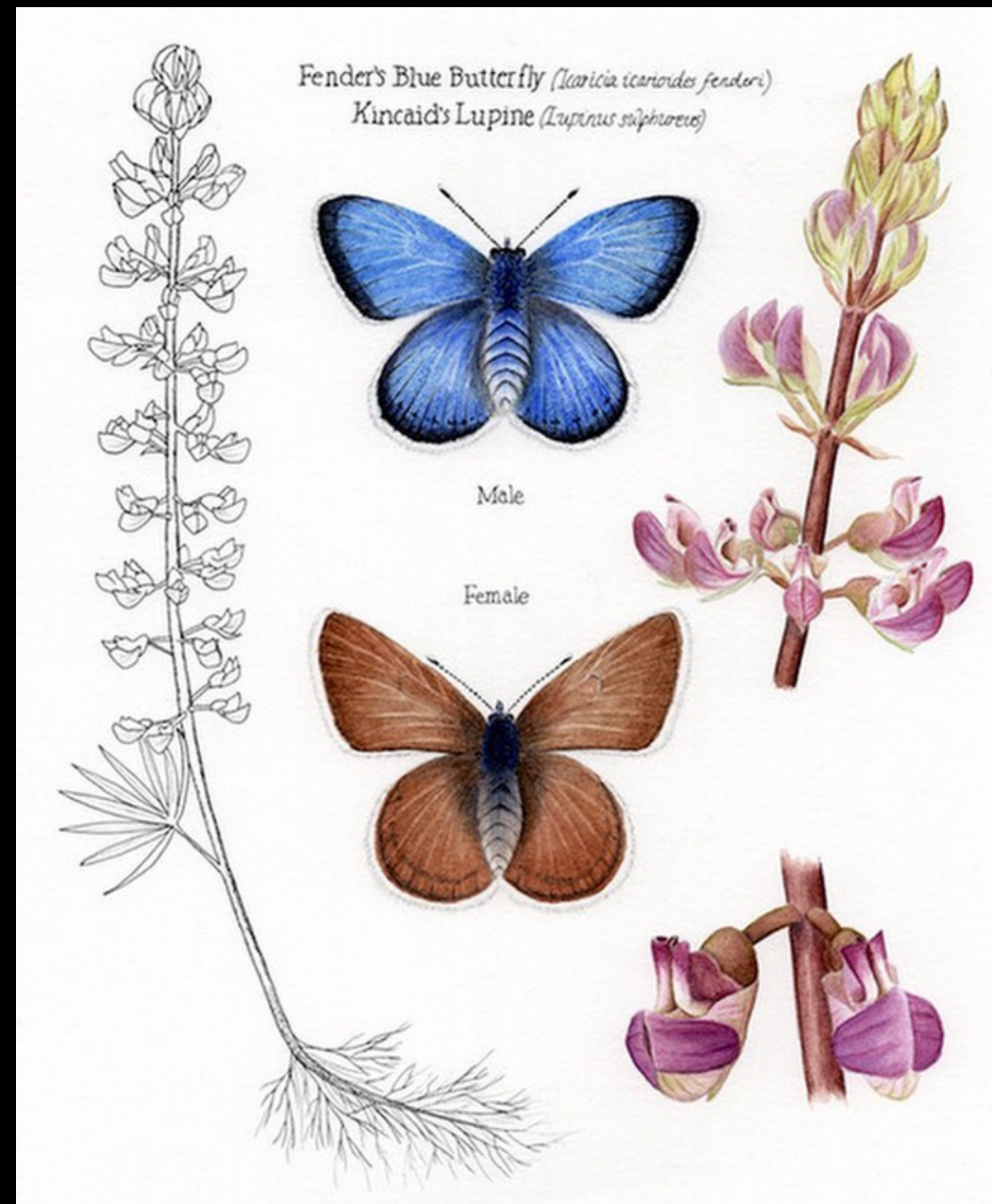


**west of Danebo**

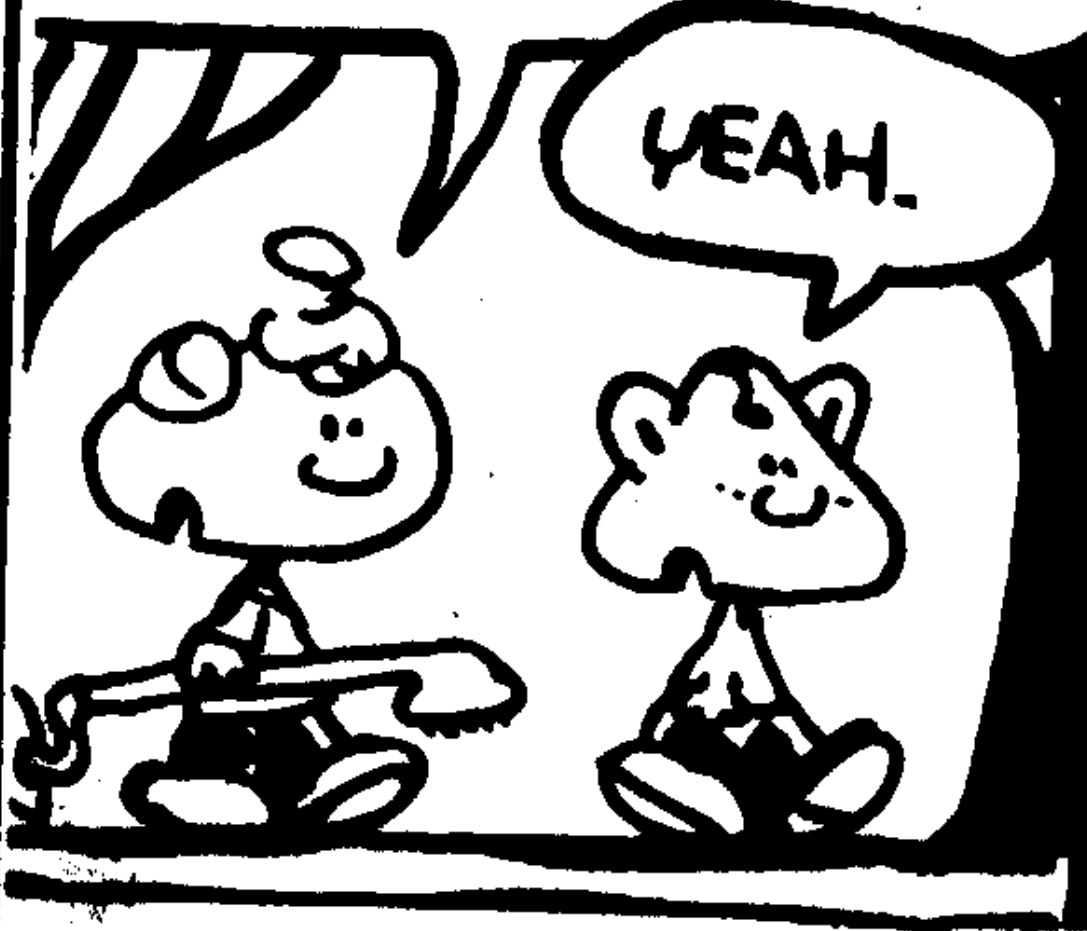
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# Kincaid's Lupine host plant of Fender's Blue Butterfly both are officially Endangered

Kincaid's Lupine is the host plant for Fender's Blue Butterfly. This plant (and the other endangered plants) require wet prairie conditions - flooded in the winter, dry in the summer, not too wet, not too dry, just right. Road construction and drainage would disrupt the delicate hydrological balance that allows wet prairie dependent species to exist. Fender's Blue Butterfly is also vulnerable to nighttime street lighting. Light pollution confuses them and causes them to fly at night when they are more likely to be preyed upon by bats. Traffic lights and overhead lighting for intersections would have endangered their habitats. Encroachment of the wetlands preserve by a variety of commercial developments is already lowering their protection. A few cities have "dark sky" ordinances to minimize light pollution by requiring lights to focus downward but Eugene has not implemented this minimal requirement.



MAYBE IF WE FOUND AN ENDANGERED SPECIES WE COULD STOP THE LANDFILL.



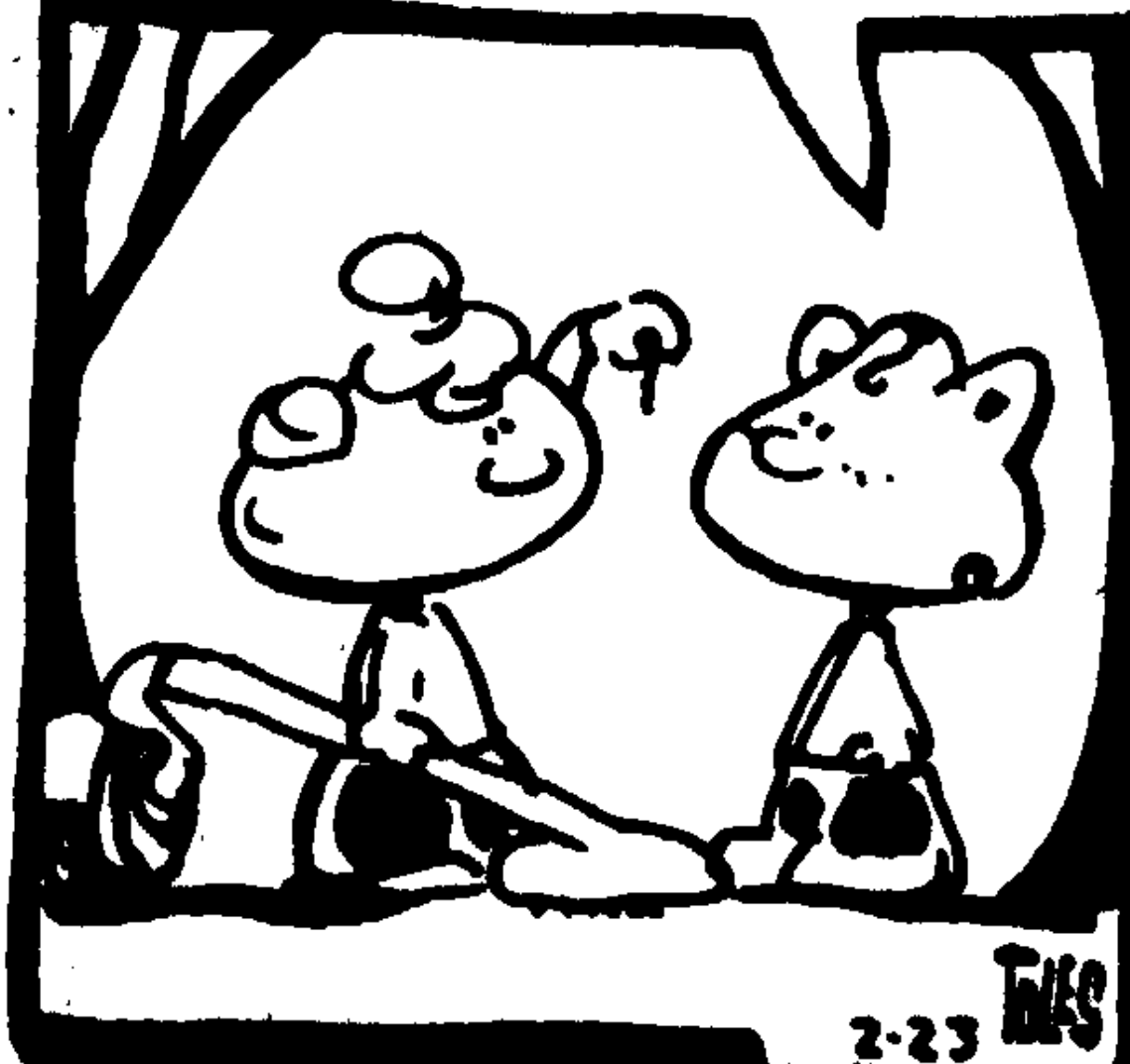
© 1984 Tom Toles/Dist. by Universal Press Syndicate

FIND ANYTHING YET?

JUST A WORM.



HOW DO WE TELL IF IT'S ENDANGERED?



2-23 Toles

IT'S Annelida Oligochaeta, VERY COMMON.

AND PRETTY DEAD.

DEAD IS KIND OF ENDANGERED.

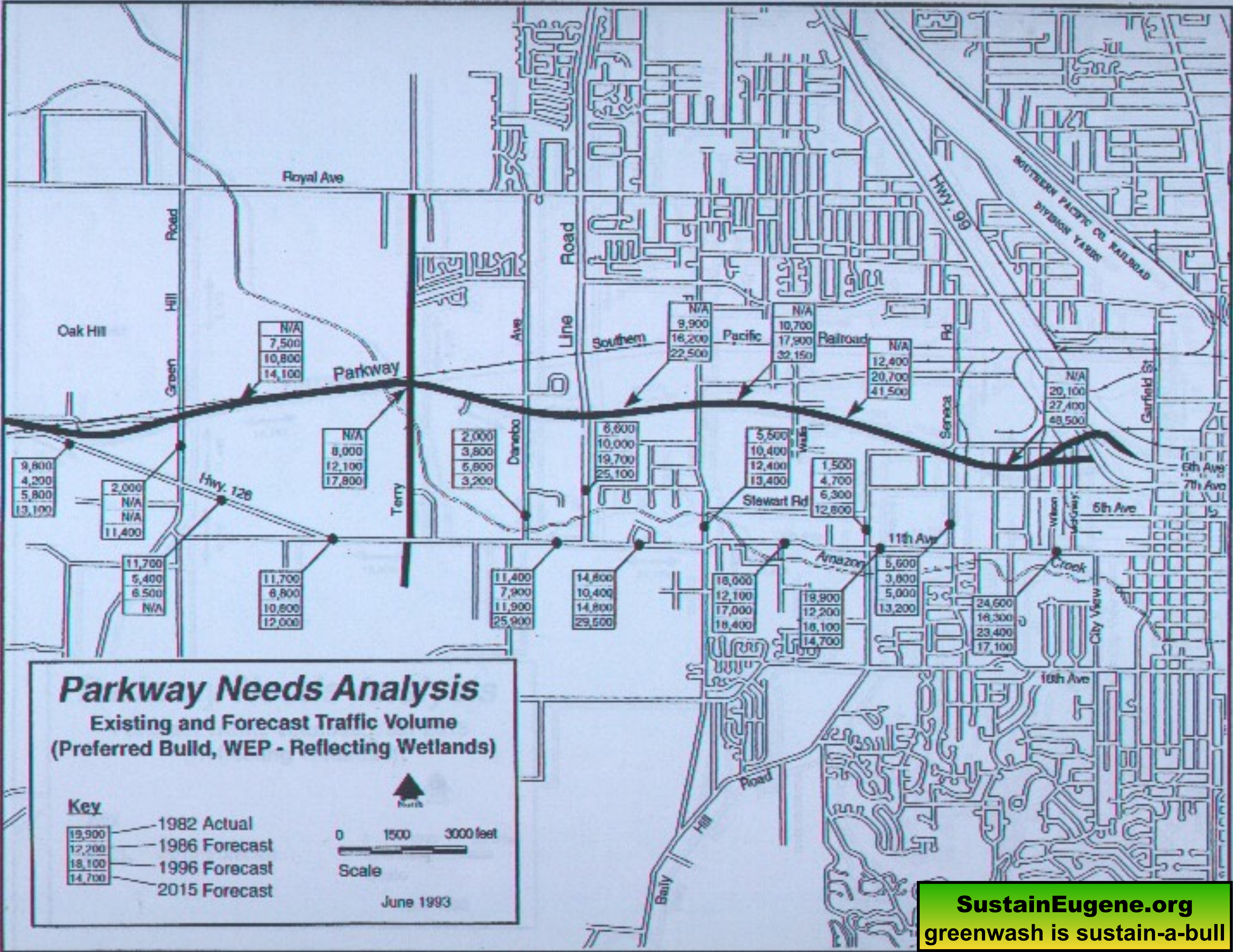


# “Protected Natural Area” or WEP wrong-of-way?



WEP would have been between the train track and this sign.

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A study from 1993 claiming to predict 2015 traffic levels that would supposedly require the Parkway.

ODOT's 1990 Final Environmental Impact Statement predicted that traffic levels would be hopelessly clogged by 2015 if the WEP was not built.

In reality, these studies all ignored the potential for Peak Traffic as the global peak of petroleum arrived.

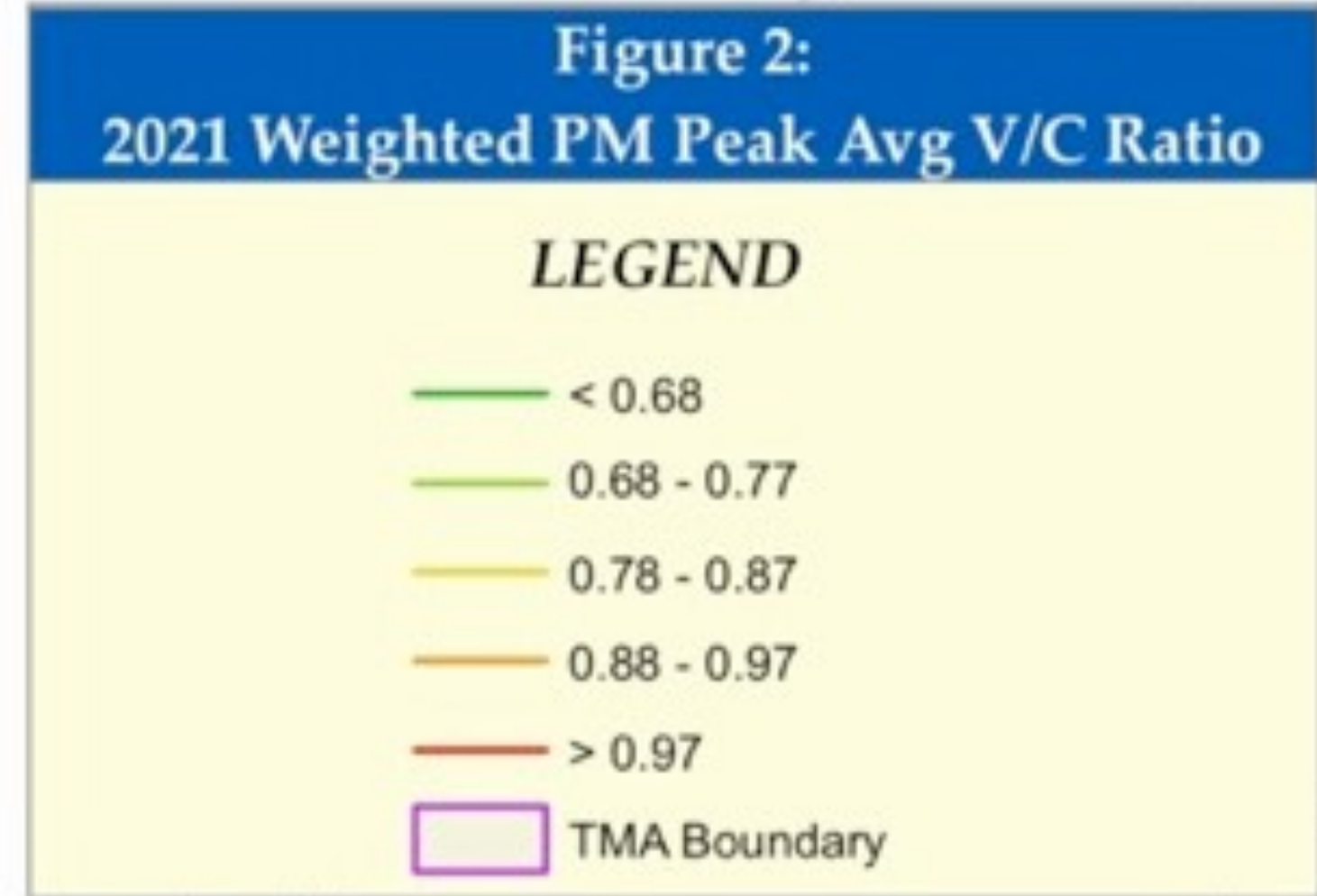
Lane County traffic on the ODOT state highway network peaked in 2003 (see slide #3 for details).

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This 2004 map from the Lane Council of Governments estimates traffic congestion in the Year 2021 (assuming that oil supplies remained constant and cheap). It shows that with the WEP, 6th and 7th would become clogged, and I-105 would be even worse. It did not make an effort to look at congestion without the WEP, but a serious effort to do that would require more than merely removing the WEP from the traffic model - it would require an effort to coordinate land use and transportation, plus an examination of Beltline for through traffic and of course the issues of "Peak Traffic" caused by Peak Oil.

In 2004, LCOG released an estimate that oil costs would rise to \$2.50 a gallon by the year 2025, and used this as the fundamental basis for their transportation planning. A half year later, petroleum prices soared above the supposed 2025 levels, but LCOG did not explain why they refused to consider the approach of Peak Oil and rising fuel costs in their model. No government anywhere in the country includes Peak Anything in their publicly available long term forecasts for transportation demand, energy availability, economic growth or anything else that could be impacted by the irreversible decline of fossil fuels. Some pretend that increased car efficiency and electric vehicles can cause a seamless transition to more green growth.



v/c means "volume to capacity"  
a level of 1 is oversaturation



Note: This map is illustrative and should be used for reference only.  
\* V/C ratios assume the construction of the West Eugene Parkway

0 0.5 1 2 Miles

MPG

August, 2004

# Measure 20-53

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The June 2001 "West Eugene Charette" consensus to select **No Build** received little attention and lasted two months.

In August, the City Council, at the urging of Councilor Gary Pape and Mayor Jim Torrey, moved to put the idea of the WEP on the November ballot (they held a SUNDAY meeting to push this forward). Perhaps the Pape clan and Torrey panicked and realized that unless they did this, the WEP was dead. Perhaps they realized the WEP was dead, but thought that if the voters passed a referendum promoting the porkway, they could then blame the liberal, environmental faction on the Council for disregarding the "will of the voters." However, Pape and Torrey knew that the decision to build or cancel the WEP would be made by the federal government - it was not a City decision and the City had not offered a penny toward construction costs.

The 1986 referendum promoting the WEP passed 80% to 20%, so presumably the promoters felt they had public opinion on their side, even if opponents managed to do better the second time. Their campaign was spearheaded by Torrey, Lane County Commissioner Bobby Green and Oregon Transportation Commissioner Randy Pape, who had agreed to support No Build at the Charette and carefully avoided mentioning this during the election campaign.



**City staff sought to sabotage discussion of alternatives by crafting a strawman alternative that included half of the WEP (east of Danebo road, west of Seneca), which would have been twice as illegal due to legal prohibitions against segmentation of a road to avoid disclosing environmental impacts.**

**Measure 20-53, which was supposedly to show support for alternatives to the WEP, failed by a large margin (even most WEP opponents were skeptical of this measure), but Measure 20-54 to support the WEP barely passed 51% to 49%. This showed the community was evenly split when told "the money is there" (even though it was not) and not told about legal obstacles that made WEP extremely unlikely.**

The outcome was mixed, but ultimately a bigger favor for opponents than supporters. The fact Eugene was not united for the highway made it difficult for politicians and highway planners to advocate for approval and funding. But the election made it easier for leading WEP supporters to blame others for the failure of the project to get legal approval and funding.

In July 2001, then City Councilor Pat Farr, a WEP proponent, conceded that the highway looked like a lost cause. He told his fellow councilors that making better use of Roosevelt Blvd. would serve his northwest Eugene community, perhaps with work to expand its intersections with Highway 99 and Beltline. Despite detailed minutes recording his comments, he later joined in the efforts to blame the failure of the WEP on highway opponents who supposedly disregarded the will of Eugene voters.

# ACTIVIST MALPRACTICE

## **Crandall Arambula: a fake alternative that would have undermined our lawsuit**

In 2002, Portland design consultancy Crandall Arambula crafted a Trojan Horse that would have had worse impacts on wetlands, parklands, forests, farms and homes, and would have ruined our federal legal claims. They had been asked to help design an alternative TO the highway but suggested a new highway design instead.

ODOT wanted about 6 miles of new highway and the consultants suggested over 10 miles, if the expressway to the airport was included in the count. (EUG is a much smaller airport than PDX and does not need a dedicated highway for buses to access the terminal.)

They suggested that each WEP intersection should have dense residential and commercial development to “manage growth” efficiently, not knowing nor caring that those lands were the most ecologically sensitive parts of the federally owned nature preserve.

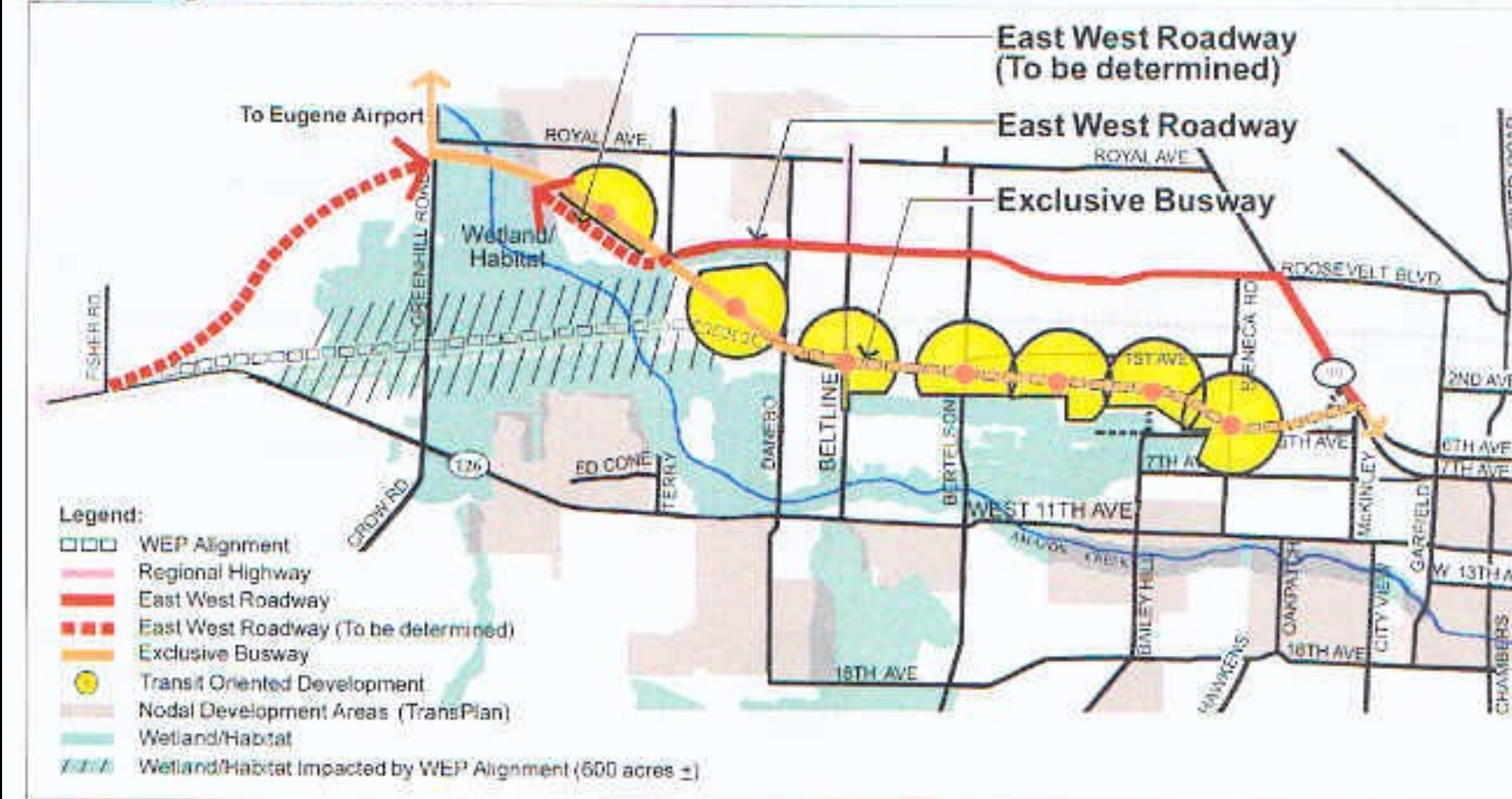
Mr. Crandall was on the board of 1000 Friends in Portland, a group previously known for their critical role stopping the Portland Western Bypass, so this betrayal was difficult for some to admit.

**Federal laws that require consideration of a range of alternatives do not require examining WORSE options than the agency’s preferred alternative.**

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## Alternatives West Eugene Parkway Review

West Eugene Alternative



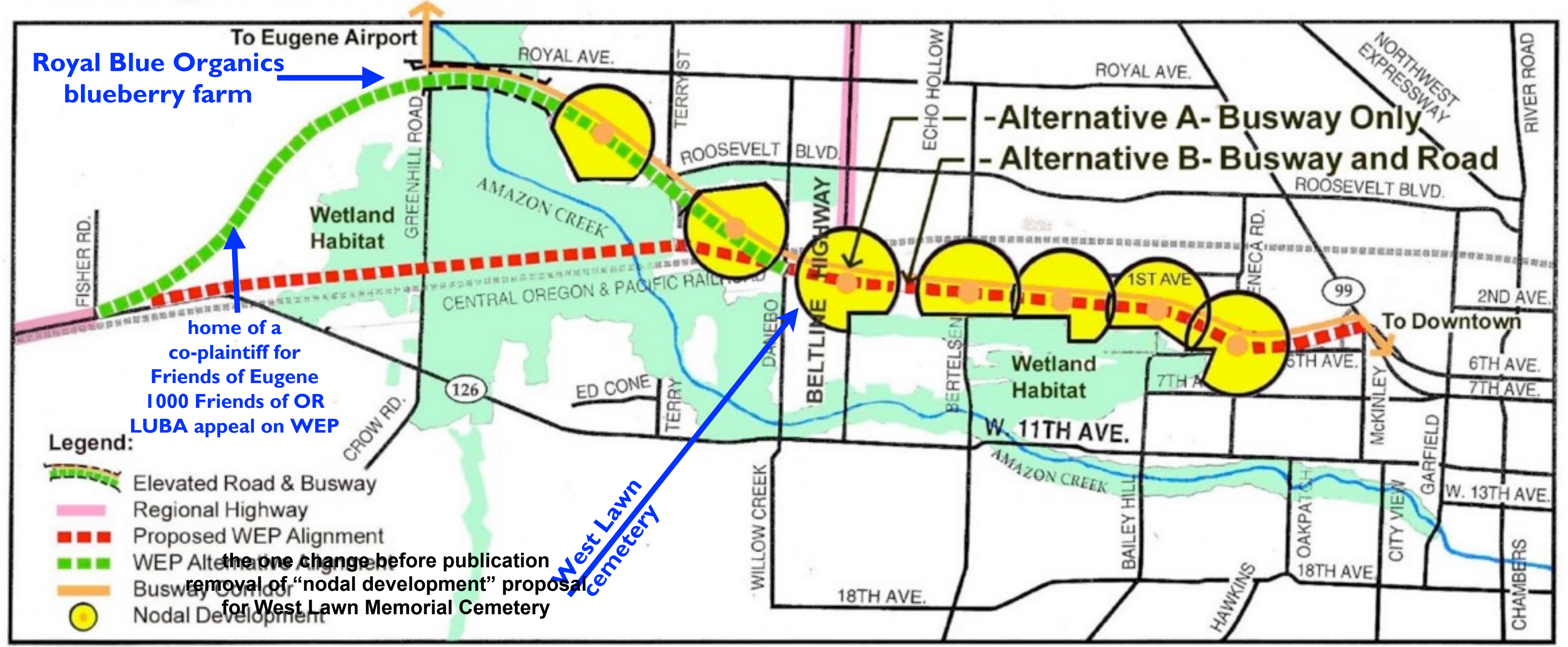
West Eugene Parkway



The worse WEP was unveiled to the community at a press conference organized by Crandall Arambula, 1000 Friends, Friends of Eugene, Rob Zako, Mary O'Brien and Rob Handy. Shortly before their press conference, the staffperson from 1000 Friends sent me the draft "alternative" they had crafted. The co-authors had not wanted the rest of the group of WEP opponents to see their proposal and **their exclusionary approach resulted in a plan that would have negated virtually every part of our excellent potential for a successful federal law suit. If real estate speculators had crafted a poison pill to sabotage our campaign they could not have done a more damaging report.**

When I first saw this report, I was amazed and angry that it proposed paving over wetlands not only with most of the WEP - and a new highway with more impacts outside of the path ODOT sought - but that it would have included commercial and residential development on wetlands along the highway. (Their "Alternative A," which would have built WEP as a bus only highway would have had the same footprint impacts, ecologically, and was not a serious proposal anyway.) The co-authors were so unfamiliar with the land that they even proposed converting a cemetery to mixed use commercial-residential development. I called the most active WEP opponents, including Mary O'Brien's husband, to let them know about this absurdity. A couple days later, the cemetery development was removed from their final report. That was the only input allowed into their final report.

## West Eugene Alternatives



Draft 9.6.02

At that time, Friends of Eugene and 1000 Friends had a state land use appeal of the WEP that included two individuals to improve "standing" for the complaint. One co-plaintiff lived on 126 just west of the bridge over the railroad. He would have been next to WEP, but the worse WEP would have routed the highway through his house. The co-authors had not had the courtesy to inform him they planned to sacrifice his property in the name of supposedly stopping the WEP (I called him to warn him after the draft was leaked to me).

You can't make this stuff up.

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In August 2002, opposing the "Crandall Arambula" worse WEP got me expelled from the Friends of Eugene legal committee even though I was the only member with previous experience fighting freeways.

Their lawyer claimed not to see any legal problems with offering a worse option, even though federal environmental laws do not require consideration of worse ideas.

In October 2002, ODOT told Eugene Mayor Jim Torrey (a WEP promoter) a worse WEP need not be considered. Their letter noted that I had pointed out its problems. ODOT privately understood WEP would not be built but still spent millions on consultants and land purchases.

The Bureau of Land Management West Eugene Wetlands project renamed part of their property "Bertelsen Nature Park" which ensured the preserve would qualify for Section 4(f) protection.

**FHWA privately conceded the WETLANDS lawsuit would likely win.**

This activist malpractice is part of a broader problem with environmental groups. Exclusionary approaches marketed as grassroots participation make it harder to protect anything other than ego. **Competition for "turf" and "credit" gets in the way of cooperation needed for our collective survival.**

## Friends of Eugene Membership

*Your membership, support, and contributions are essential to keep Friends of Eugene going!*  
*Special Current Needs: Help with challenging the Garage Giveaway, with reclaiming downtown Eugene planning, and with costs of fighting the West Eugene Parkway (the WEP).*  
*Any amount is appreciated, small or large!*

Regular Member: \$35 Low-Income Member: \$15  
Contributing Member: \$60 Sustaining Member: \$100

**November 30, 2010**  
**three and a half years after "No Build" was selected**

Please send checks to: Friends of Eugene, PO Box 50753, Eugene, OR 97405

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### Email Lists

Please join the Friends of Eugene "members" announcements-only email list, to help stay in touch. You're welcome and invited whether or not you're a dues paying member. Just visit:  
[http://www.designcommunity.com/mailman/listinfo/foe\\_members](http://www.designcommunity.com/mailman/listinfo/foe_members)

And follow the simple steps there to subscribe (and then to unsubscribe, if that's you'd like at any point).

And please consider joining the Friends of Eugene general discussion email list to contribute ideas, information, and events in a two-way email conversation format. Visit:  
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Privacy Note: Friends of Eugene does not exchange the names and addresses of its members with other organizations.

### Board of Directors

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## Stopping WEP: a success and a failure by Mark Robinowitz

When the WEP was still under consideration, I wrote this:

*"Ultimately, cancellation of the WEP could force a serious, regional discussion of sustainability that involves the entire community -- at the very least, it will require a major revision for long term planning for the region."*

WETLANDS succeeded in getting "No Build" from Federal Highway Administration without having to file WETLANDS v. FHWA. This technical success did not lead to fundamental rethinking of energy policies as we enter the age of oil depletion, temporarily given a stay of execution by ultrahazardous fracking.

During my involvement in the WEP campaign (1999 to 2007, when the Federal Highway Administration made its "No Build" decision), neither the Register Guard nor the Eugene Weekly dared mention that the decider for the project was the Federal government, not the City of Eugene. It was no surprise that this key point was ignored by the pro-WEP RG, but it was a little surprising that the Weekly also ignored it. Neither publication ever mentioned the work I did to document the illegalities of the proposal, but both did permit a couple letters and op-eds from this writer, the only times the Federal aspect was mentioned.

Some of the most ardent WEP proponents argued that since the voters of Eugene had supported non-binding referenda in favor of the road (about 80% in favor in 1986, and 51% - 49% in 2001) that opponents, especially at City Hall, were violating the will of the public. The City offered no money toward construction of a project that ballooned from \$88 million to at least \$169 million. Federal highway funds meant it was a federal decision, a fact not in the public debate (except through my modest efforts). The WEP would have violated every applicable federal transportation law rarely mentioned. Neither the RG nor EW ever mentioned Section 4(f) of the 1966 Transportation Act, which prohibits federal aid transportation projects through parklands such as the West Eugene Wetlands. Fortunately, the Federal Highway Administration, Oregon Department of Transportation, US Bureau of Land Management (which manages the wetlands park), US Army Corps of Engineers (which would have issued the wetlands destruction permit) all came to understand that 4(f) meant the highway would likely lose in court.

If the media had fully informed the public the aftermath of the WEP might have had less community division. Ego got in the way, unfortunately. WEP supporters did not want to admit they promoted a destructive, expensive project long after they recognized it was unlikely to be built. Some WEP opponents did not want to admit that I, Mark Robinowitz, was focused on core parts of the project -- 4(f) -- that they did not already know about and did not want to cede "credit" for supposedly stopping it.

Stopping the WEP was a success in the sense the road proposal is dead, unlikely to ever be revived. ODOT sold off some of the "wrong of way" bought for the highway. The City allowed a couple buildings to be built in other sections.

The WEP cancellation failed to create policy shifts appropriate for the peak oil and climate change future we are all entering. Other highway expansions through the Eugene Springfield metro area continue unabated, notably widenings of I-5, the Beltline I-5 interchange, and soon, the Beltline widening across the Willamette River. Perhaps worst of all was the blame game by conservative WEP proponents (such as Pat Farr) and the failure to acknowledge why the WEP was stopped by liberal WEP opponents.

**Lane County is a multi polarized place and the WEP reflected this.**

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**WEP land for sale**  
**proof of cancellation**

