City of Bellevue
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June 1, 2011

Trevin Taylor
Washington State Department of Transportation
Highways and Local Programs Division
PO Box 47390
310 Maple Park Avenue
Olympia WA 98504-7390

Subject: No Effect Letter; NE 4th Street/120th Avenue NE Corridor Project, Bellevue, Washington

Dear Trevin:

We have prepared this No Effect Letter to assist the City of Bellevue (City) in meeting the requirements for Endangered Species Act (ESA) Section 7 coordination with the Washington State Department of Transportation (WSDOT) Highways and Local Programs Division (HWLP) and the Federal Highway Administration (FHWA), as described in Chapter 24.7 of the Local Agency Guidelines Manual. The federal nexus for this project is potential FHWA funding through WSDOT's HWLP. Supporting technical information for this No Effect Letter is documented in the project *Biological Resources Technical Report* (Shannon & Wilson, Inc. [S&W], 2011).

Project Description

The proposed project is located in Bellevue, Washington, which is located in King County (Section 28, Township 25 North, Range 5 East, Willamette Meridian). The City is proposing to extend NE 4th Street from its existing terminus with 116th Avenue NE eastward to 120th Avenue NE and complete comprehensive widening and realignment of 120th Avenue NE from the proposed intersection with NE 4th Street northward to Northup Way (see enclosed Action Area Map). Project elements include clearing and grading within the existing and acquired right-of-way, paving of the new roadway, constructing sidewalks and planting strips, and replacing a culvert beneath 120th Avenue NE at the West Tributary of Kelsey Creek.

The proposed project would result in an increase of 2.84 acres of currently pervious surfaces becoming impervious. Currently, no stormwater treatment is provided for impervious surfaces within the project corridor. The proposed project would provide stormwater treatment for 2.84 acres of new impervious surfaces and 1.81 acres of existing impervious surfaces, for a total of 4.65 acres to be treated. Where runoff treatment is provided, enhanced treatment measures would be used. The remaining 12.29 acres of impervious surfaces in the project corridor would not be treated. The project Environmental Classification Summary and supporting technical reports include more detailed project components.

Construction is planned for early 2012 and will take approximately four years to complete. The project is located in a commercial/light-industrial area, which is already subject to noise from surface streets, construction, and adjacent businesses. The proposed action is not anticipated to significantly increase noise levels beyond that of background noise levels.

Species Information

Based on ESA listings on the U.S. Fish and Wildlife Service (WSFWS) and National Marine Fisheries Service (NMFS) websites, accessed in April 2011, federally-listed species potentially present in King County include:

1. Grizzly bear *(Ursus arctos = U. a. horribilis)*
2. Gray wolf *(Canis lupus)*
3. Canada lynx *(Lynx canadensis)*
4. Marbled murrelet (*Brachyramphus marmoratus*)
5. Northern spotted owl *(Strix occidentalis caurina)*
6. Golden paintbrush (*Castilleja levisecta)*
7. Puget Sound Chinook (*Oncorhynchus tshawytscha*)
8. Coastal-Puget Sound bull trout (*Salvelinus confluentus*)
9. Puget Sound steelhead (*Oncorhynchus mykiss*)
10. Humpback whale (*Megaptera novaeangliae*)
11. Southern resident killer whale (*Orcinus orca*)
12. Steller sea lion (*Eumetopias jubatus*)
13. Bocaccio (*Sebastes paucispinis*)
14. Canary rockfish (*Sebastes pinniger*)
15. Yelloweye rockfish (*Sebastes ruberrimus*)

A review of the Washington State Department of Fish and Wildlife (WDFW) Priority Habitat and Species Database (WDFW, 2010a), WDFW SalmonScape mapping tool (WDFW, 2010b), the Washington State Department of Natural Resources Washington Natural Heritage Program (WNHP) rare plant species database (WNHP, 2010), and the City Drainage Basin Maps (Bellevue, 2010a and Bellevue, 2010b) indicated that no federally-listed plant or animal species have been mapped in the project vicinity.

Action Area

The Action area was determined based on anticipated limits of construction noise and stormwater effects (see enclosed Action Area Map). A field review of the action area was conducted by a Shannon & Wilson biologist on December 7, 2009; July 29, 2010; and March 8, 2011. Land use in the Action Area consists primarily of commercial/light-industrial activity and transportation corridors. Most of the action area is covered by impervious surfaces; much of the area was developed without stormwater treatment. Background noise levels are high due to traffic on 120th Avenue NE, Bel-Red Road, Interstate 405, adjacent side streets, and commercial activity.

The project corridor is located in two subbasins: the Sturtevant Creek subbasin to the south and the West Tributary of Kelsey Creek subbasin to the north. The West Tributary of Kelsey

Creek drains the northern third of the project corridor and Sturtevant Creek drains the southern two-thirds of the project corridor.

Available wildlife habitat in the Action Area is fragmented and is limited to the Sturtevant Creek and West Tributary of Kelsey Creek stream corridors, four wetlands (identified as Wetlands A, B, C, and D), and a small forested upland area. The West Tributary of Kelsey Creek is the only stream located within the project boundary or its immediate vicinity. The on-site reach includes the stream's headwaters within Wetland D, where it gradually flows within a 5-foot-wide active channel with a bed comprised of 6 inches of silt before entering a 36-inch culvert under 120th Avenue NE. The stream daylights approximately 260 feet downstream into a channel within Wetland C. The active channel in Wetland C is approximately 4 feet wide with a bed comprised of sand and well-rounded gravels. As the stream exits the 36-inch corrugated metal pipe under 120th Avenue NE, the ordinary high water mark for the stream fans out above the banks of the active channel and encompasses much of Wetland C.

Approximately 3,500 feet downstream of the project corridor, the West Tributary of Kelsey Creek passes through an outlet-control structure (see enclosed Photo A) and enters a culvert where it is conveyed below ground for approximately 2,000 feet to the south of Bel-Red Road (Photo B). This 2,000-foot underground pipe has several bends and is a fish barrier based on WDFW SalmonScape maps (WDFW, 2010b) and the City's basin map for the West Tributary of Kelsey Creek (Bellevue, 2010a). Downstream of Bel-Red Road, the West Tributary of Kelsey Creek joins Goff Creek, which is tributary to Kelsey Creek. Goff Creek then connects to Kelsey Creek, which drains through Mercer Slough into Lake Washington.

Sturtevant Creek originates at Lake Bellevue and flows south in a ditch adjacent to railroad tracks for approximately 600 feet before going into an underground pipe at approximately NE 8th Street (Photo C). Sturtevant Creek daylights again at NE 4th Street (Photo D) and flows south to where it crosses under I-405 (approximately 3,000 feet downstream of the project corridor). After it crosses I-405, Sturtevant Creek flows south to its confluence with Kelsey Creek/Mercer Slough. I-405 is a fish passage barrier based on WDFW SalmonScape maps (WDFW, 2010b) and the City's basin map for Sturtevant Creek (Bellevue, 2010b). Even if this fish barrier was removed, the piped portion of Sturtevant Creek would be considered another fish barrier (Photo E).

Impacts

Best management practices will be used during construction to prevent soils from being conveyed to the action area wetlands and streams. In addition, Lake Bellevue and a large, ponded area above a flood control structure in the West Tributary of Kelsey Creek would likely insulate lower sections from construction stormwater effects.

Stormwater treatment is proposed for the new pollution-generating impervious surfaces of the project. Based on the project *Water Quality Technical Report*, the project would result in increased levels of dissolved zinc and copper in stormwater (Parsons Brinkerhoff [PB], 2011). As described in the *Biological Resources Technical Report* (S&W, 2011), PB used the WSDOT Highway Runoff Dilution subroutine (HI-RUN) to determine when these increased dissolved zinc and copper concentrations would dilute to below the biological threshold (where salmonids have a behavioral change) in the Action Area water bodies.

Background dissolved zinc and copper concentrations were obtained for Kelsey Creek (downstream of its confluence with the West Tributary of Kelsey Creek) via Washington State Department of Ecology (Ecology) Environmental Information Management website (Ecology, 2011). No closer sources of baseline information for Sturtevant Creek or the West Tributary of Kelsey Creek were found. The HI-RUN calculations were completed for the months that salmon are expected to be in site streams (September through November). Based on these parameters, it appears likely (with 95 percent certainty) that Sturtevant Creek and West Tributary of Kelsey Creek would dilute to below the biological threshold for copper within 1 foot of stormwater discharge locations and for zinc within 1 to 6 feet of stormwater discharge locations.

Due to fish barriers at Bel-Red Road (for the West Tributary of Kelsey Creek) and I-405 (Sturtevant Creek), salmonids are not likely present until approximately 3,000 feet downstream of the project corridor in Sturtevant Creek and 5,500 feet downstream of the project corridor in the West Tributary of Kelsey Creek. Based on these distances, it is expected that dissolved zinc and copper associated with this project would be diluted to baseline conditions before reaching anadromous fish populations.

Effects Determination

No forested areas within the action area contain habitat elements suitable for either northern spotted owl or marbled murrelet, though avian species are not precluded from occasionally flying over the Action Area. The action area does not contain any prairie habitat that would be suitable for golden paintbrush. Grizzly bear, Canada lynx, and gray wolf habitat may occur in parts of eastern King County; however, no suitable habitat is located within the urban areas of King County. Therefore, the proposed project will have *no effect* on northern spotted owl, marbled murrelet, golden paintbrush, grizzly bear, Canada lynx, or gray wolf.

Marine species are precluded from the Action Area due to lack of marine habitat and the Ballard Locks in Seattle. Therefore, the proposed project will have *no effect* on humpback whale, southern resident killer whale, Steller sea lion, bocaccio, canary rockfish, or yelloweye rockfish.

Anadromous fish species potentially present in King County are precluded from the Action Area by culverts located 3,000 to 5,500 feet downstream of the proposed project that are documented as full barriers to upstream passage. Potential project construction and operation water quality impacts are not expected to reach salmonid populations (see impacts section above). Therefore, the proposed project will have *no effect* on Puget Sound Chinook, Coastal-Puget Sound bull trout, or Puget Sound steelhead.

Essential Fish Habitat

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) includes a mandate that NOAA Fisheries must identify essential fish habitat (EFH) for federally managed marine fish, and federal agencies must consult with NOAA Fisheries on all activities, or proposed activities, authorized, funded, or undertaken by the agency that

may adversely affect EFH. The Pacific Fishery Management Council (PFMC) has designated EFH for the Pacific salmon fishery, federally managed ground fishes, and coastal pelagic fisheries.

The habitat in the Action Area is freshwater habitat. Therefore, the project will have no adverse effect on pelagic or groundfish species managed by NMFS due to the lack of marine habitat.

The proposed project will not adversely affect habitat for Pacific salmon fishery species protected under the Magnuson-Stevens Act due to the following factors: lack of fish access to the Action Area due to barriers downstream, lack of prey population in Action Area stream reaches, construction stormwater impacts would be avoided/minimized with BMPs, and dissolved copper and zinc concentrations are expected to dilute to background levels before reaching anadromous fish populations.

In compliance with the Magnuson-Stevens Act, essential fish habitat was assessed for the project. It was determined that the project will not have an adverse effect on EFH.

Closure

This assessment satisfies WSDOT's and FHWA's responsibilities under Section 7(c) of the Endangered Species Act at this time. We are sending you this copy of our assessment for your files. We will continue to remain aware of any change in status of these species and will be prepared to reevaluate potential project impacts if necessary.

If you have any questions, or need additional information, please contact me by phone at (425) 452-7905 or by e-mail at PKrawczyk@bellevuewa.gov, or you may contact the City's biological consultant Becki Kniveton of Shannon & Wilson by phone at (206) 695-6673 or by e-mail at bsk@shanwil.com.

Sincerely,

Paul, Krawczyk, PE, PTOE
City of Bellevue
Transportation Department

Enclosures: References
Action Area Map
Photos

cc: Phil Segami, WSDOT Highway and Local Programs
Ken Oswall, PB
Becki Kniveton, Shannon & Wilson
City of Bellevue Project File

References

Bellevue 2010a City of Bellevue (Bellevue). 2010. http://www.bellevuewa.gov/drainage_basin_maps.htm. *Drainage Basin Maps, West Tributary Basin.*

Bellevue 2010b City of Bellevue (Bellevue). 2010. http://www.bellevuewa.gov/drainage_basin_maps.htm. *Drainage Basin Maps, Sturtevant Creek Basin.*

Ecology 2011 Washington State Department of Ecology (Ecology). 2011. *Environmental Information Management website.* User Location ID KCM-0444. http://apps.ecy.wa.gov/eimreporting/Results.asp?Type=LocationParameters&ID=35967547&LocationParametersSortColumn=PR_IDENTIFICATION_CD+ASC&RecordsPerPage=100&RecordPage=1.

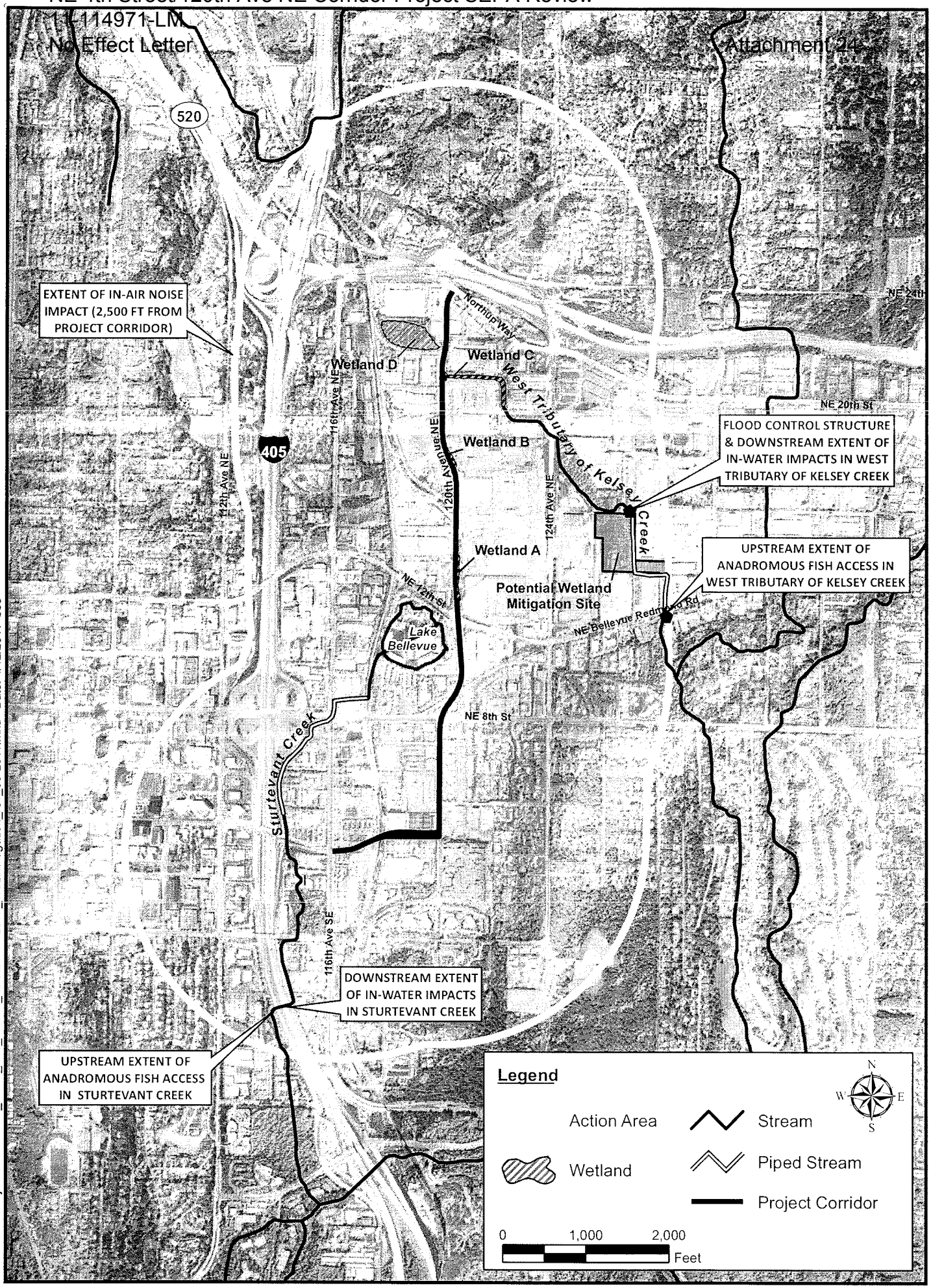
PB 2011 Parsons Brinckerhoff (PB). April 15, 2011. *NE 4th Street/120th Avenue NE Corridor Project, Water Quality Technical Report (Draft).*

S&W 2011 Shannon & Wilson, Inc. (S&W). June 2, 2011. *NE 4th Street/120th Avenue NE Corridor Project, Biological Resources Technical Report.*

WDFW 2010a Washington State Department of Fish and Wildlife (WDFW). 2010. *Priority Habitats and Species GIS.*

WDFW 2010b Washington State Department of Fish and Wildlife (WDFW). 2010. http://fortress.wa.gov/dfw/gispublic/apps/salmonscape/default.htm. *SalmonScape.*

WNHP 2010 Washington State Department of Natural Resources Washington Natural Heritage Program (WNHP) Database. 2010. http:// www1.dnr.wa.gov/nhp/refdesk/fguide/htm/fgmain.htm.



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Photos

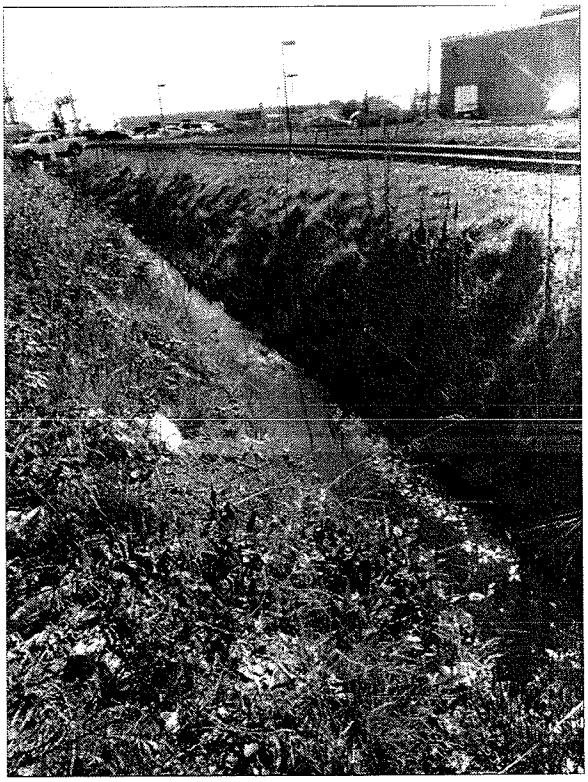

Photo A. Upstream Extent of Sturtevant Creek (Between NE 8th Street and Lake Bellevue)

Photo B. Sturtevant Creek South of NE 4th Street

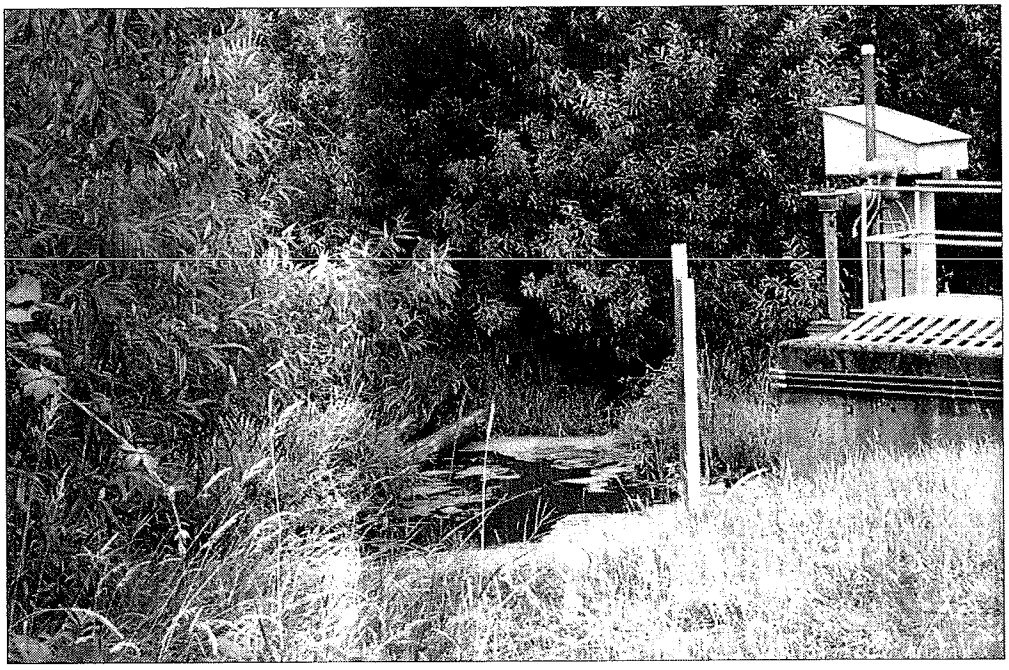

Photo C. West Tributary of Kelsey Creek Outlet-Control Structure