

FY 2010 RESEARCH PROBLEM STATEMENT

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TITLE ([more info](#))

Cost Recovery for Hazardous Materials Releases Impacting ODOT Property

PROBLEM (Description of need) ([more info](#))

ODOT property is frequently impacted by releases of hazardous materials from adjacent properties or from highway trucking accidents. ODOT costs associated with such contamination can be significant, ranging from a couple of thousand dollars to several hundred thousand dollars or more per project or incident. Some cost recovery mechanisms used previously can no longer be applied, based on recent Oregon Supreme court rulings and DOJ guidance. Other existing cost recovery mechanisms are restricted to property purchases. However, ODOT does have an obligation to attempt cost recovery. According to DOJ, ODOT is legally required to attempt to recover costs associated with contamination when the project funding includes money from the Highway Trust Fund. FHWA policy also requires ODOT to attempt cost participation or cost recovery from the responsible parties for all projects that include federal funding. In addition, is financially beneficial to ODOT, as long as it is applied based on a cost-benefit analysis for each case.

Examples of past ODOT project costs associated with third party hazardous materials releases are provided below to illustrate the magnitude of this problem. These costs are estimates and they do not include costs that have been recovered from the responsible parties.

- 99W @ Division Street, Ross Island Bridge, completed in 2007 = \$185,000
- Martin Luther King Jr. Blvd Viaduct Replacement, construction in progress = \$490,000
- OR 219: Hillsboro - Silverton Hwy at Farmington Rd, completed in 2008 = \$130,000
- Hwy 101: Manzanita-Wheeler (Nehalem), completed in 2007 = \$400,000
- OR99W @ 5th Street Signal Replacement (Dundee), construction in 2008 = \$120,000
- Redmond Reroute (all phases), completed in 2008 = \$750,000

PROPOSED RESEARCH, DEVELOPMENT OR TECHNOLOGY TRANSFER ACTIVITY ([more info](#))

Research needs to identify cost recovery strategies that could work effectively for ODOT and minimize resources required to go after cost recovery.

- Work with DOJ to identify legal requirements and limitations.
- Identify states with similar regulatory framework and requirements and research how other State DOTs pursue cost recovery.
- Work with DOJ and ODOT ROW, HazMat and Maintenance to develop cost recovery procedures that will be effective for ODOT and to develop a cost-based decision matrix for when it is appropriate to pursue cost recovery.

BENEFITS ([more info](#))

This research would help ODOT reduce the cost of construction and maintenance projects through, cost recovery, by an estimated \$700,000 per year. It will also help ODOT to better comply with State law and FHWA guidance.

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