

2009-2011 Oregon Plan Biennial Report – Agency Reports

October 29, 2010

To: Melissa Leoni, OWEB

From: Bill Ryan, Assistant Director, Wetland & Waterway Conservation Division, DSL

Re: 2009-2011 Oregon Plan Biennial Report

In response to your memo dated October 4, 2010, the Department of State Lands (DSL) offers the following description of its activities, programs and projects in support of the Oregon Plan for Salmon and Watersheds.

Technical Assistance:

New Regulatory Exemption for Voluntary Habitat Restoration Projects

Legislation enacted during the 2009 Session granted DSL the authority to exempt certain voluntary habitat restoration activities from removal-fill permit requirements (ORS 196.905). DSL rulemaking ensued with adoption of new rule in January 2010 exempting six categories of habitat restoration activity from removal-fill permit requirements (OAR 141-085-0534):

- Research and fish management activities in Essential Salmonid Habitat waterways
- Vegetative planting in wetlands and waterways
- Wetland habitat management activities in state and federal wildlife refuges
- Ditch and drain tile removal in wetlands
- Placement of large wood, boulders and spawning gravels in waterways
- Other activities customarily associated with habitat restoration in Essential Salmonid Habitat waterways

Development of Notice-based Authorization Process

Starting in 2009, DSL has been re-envisioning the current expedited form of permits (called General Authorizations) as a notice-based permit process whereby applicants provide minimum information (“notice”) on project location and activity type to be covered under one of eight pre-approved General Authorizations. Three of those eight activity types specifically support salmon and watershed recovery efforts:

- General Authorization for Waterway Habitat Restoration
- General Authorization for Wetland Ecosystem Restoration
- General Authorization for Streambank Stabilization (using bio-engineering techniques).

The authorization process for these activities will be no more than 30 days with a no-fee application. The formal rulemaking process is now underway with final adoption and implementation of the new rules expected in March 2011.

Development of Removal-Fill Guidance Document

Starting in 2009, DSL has been developing a comprehensive Removal-fill Guide providing applicants and consultants the information needed to understand the removal-fill permit

process, guidance on preparing a quality application, and bringing transparency to the decision-making process. Benefits will include better-informed consultants and applicants resulting in higher quality, complete applications that can be processed more quickly. The guidance document is anticipated to be available on the DSL website by January 2011.

Development of the OR Rapid Wetland Assessment Protocol

During the 2003 legislative session, DSL committed to developing a wetland assessment methodology that could be applied statewide to assess the functions, values and condition of wetlands for permitting purposes. The assessment protocol was completed in May 2009 with a series of trainings conducted thereafter.

Although ORWAP was developed primarily for state and federal wetland regulatory program use, it was also designed to be suitable for wetlands planning by local governments and for wetland assessments by watershed councils and other entities. DSL is working with three cities and one county government to test the protocol during the development of their Local Wetland Inventory (LWI) and designation of Locally Significant Wetlands (LSW). Wetland inventories, assessments, and LSW designations must be completed prior to adopting a local wetland protection program under Goal 5 or Goal 17 of the Statewide Land Use Planning Program.

Fish and Wildlife Habitat:

DSL Participation in Oregon Plan for Salmon and Watersheds

DSL is a Core Team agency under the Oregon Plan for Salmon and Watersheds. DSL has been an active participant in recovery planning efforts for the Coastal Coho, Lower Columbia, Upper Willamette and Mid Columbia salmon and steelhead recovery plans. The plans – which are guidance, not regulatory, documents – describe a process to restore listed species and ecosystems to a point where the species' future is safeguarded and the protections of the Endangered Species Act are no longer necessary.

DSL has worked closely with recovery planning teams and stakeholders to develop specific management actions necessary to recover listed salmon and steelhead. The recovery plans identify key management actions such as maintaining high quality habitat, encouraging land-use practices that won't further degrade habitat conditions (i.e., maintaining forestlands, developing outside of floodplains to maintain hydrologic connectivity) and acting quickly on all priority actions identified in the plans.

To support these actions, DSL and other natural resource agencies have been coordinating efforts to streamline the permitting process for fish habitat and wetland restoration projects and incorporate actions identified in the plans into mitigation voluntary restoration permit considerations. In addition, DSL is requiring appropriate avoidance and minimization of impacts to wetlands and waterways in areas that have been identified for protection.

Regional management plans are under development. Each plan includes action items and timelines specific for that region. As those action items are developed, DSL will incorporate them into the considerations for mitigation and voluntary restoration permits.

Regulation/Enforcement:

For fiscal years 2009 and 2010, DSL reports:

- A net gain of 356 acres of wetlands and over 3,600 acres of wetlands enhancement due to permit actions.
- Approving five new wetland mitigation banks increasing to 20 the number of such banks providing compensation for wetland impacts from authorized activities.
- Receiving a total of \$565,791 in fees for payment-in-lieu mitigation into the OR Removal-Fill Mitigation Fund and supporting three wetland restoration projects with a total of \$1,016,151 expended from the Fund: a 55-acre wetland restoration and enhancement project in the Deschutes River Basin; a 28-acre wetland and salmon-bearing stream improvement project in the Lower Willamette Basin; and a 17-acre tidal and high marsh habitat restoration project in the Mid-Coast Basin.
- Updating the Essential Salmonid Habitat (ESH) mapping to reflect more accurate mapping and habitat reopened to salmonids through recovery and restoration efforts. The update in March 2010 resulted in 20,095 miles of ESH streams in the state – an increase of 2,162 miles since the last update in 2001.
- Reviewing 328 permits for compliance with mitigation conditions. A compliance rate of 64% on permits with wetland mitigation conditions was reported.