



December 21, 2007

## MEMORANDUM

**TO:** Oregon Watershed Enhancement Board

**FROM:** Melissa Leoni, Senior Policy Coordinator

**SUBJECT:** **Agenda Item M: 2009 Legislative Concepts  
January 16-17, 2008 OWEB Board Meeting**

### I. Introduction

This report briefs the Board on the process to develop proposals for the 2009 legislative session and seeks Board discussion of potential draft legislative concepts.

### II. Background

State agency legislative concepts are submitted to the Legislature by the Governor after a nearly nine month development and review process. Legislative concepts are first submitted by agencies to the Department of Administrative Services (DAS). Once approved by DAS, legislative concepts are sent to Legislative Counsel for drafting prior to pre-session filing by the Governor. The table below shows the key deadlines for development of agency legislative concepts for the 2009 session.

<b>March 19-20, 2008</b>	Final Board review of proposed concepts.
<b>April 4, 2008 – 5:00 PM</b>	Last day to submit concepts to DAS.
<b>June 2, 2008 – 5:00 PM</b>	Last day for DAS to submit concepts to Legislative Counsel.
<b>December 1, 2008 – 5:00 PM</b>	Legislative Counsel stops work on agency drafts.
<b>December 15, 2008 – 5:00 PM</b>	Deadline for Governor to pre-session file agency bills.
<b>January 12, 2009</b>	Session begins.

Concurrently, staff will be preparing the agency's budget proposals, which also will be submitted to the Governor and DAS for possible inclusion in the Governor's Recommended Budget for the 2009-2011 biennium. Staff anticipate bringing draft budget packages to the Board at the March and May 2008 Board meetings prior to the anticipated July 1, 2008 deadline for agency requests.

### III. Draft Legislative Concepts

To date, staff have developed the following two proposed legislative concepts for Board consideration and discussion.

### **A. Landscape Contractor Exemption**

This draft concept would add an exception to the landscape contractors licensing requirements for watershed councils and other eligible grant recipients who are performing landscaping work as part of an OWEB-funded restoration grant. This addition makes the landscape contractors statutes consistent with the Oregon Plan for Salmon and Watersheds goals outlined in ORS 541.405.

“Landscape contractor” is defined in ORS 671.520 as including any person who for potential or actual compensation performs or supervises the planting or installation of trees or nursery stock. As described in ORS 671.530(1), a person may not operate as a landscape contractor without a license. The statute also lists a number of exceptions to the licensing requirement (ORS 671.540); but for federal and state agencies, or any political subdivision, only planting on public property is currently exempt.

This issue has come to staff’s attention over the past year and may be resolvable in other ways. It is our understanding that it is not the intent of the Landscape Contractors Board to require licensing for riparian restoration work. We propose an addition to ORS 671.540 that would allow watershed councils, SWCDs, and other eligible grantees to implement riparian restoration funded by OWEB without being subject to the landscape contractors licensing requirements. OWEB is working with the Landscape Contractors Board on this concept. OWEB will seek support from stakeholders and grant recipients who benefit from this proposal.

### **B. Multiple Projects and Permit Requirements**

This proposed concept would clarify that funding for a specific activity could be released when all the required permits for that specific activity are submitted to OWEB, regardless of whether permits are needed for other activities funded in the proposed project through a single grant application. OWEB’s statutes contained in ORS 541.351 to 541.415 use the term “project” in a way that implies that applicants only apply to OWEB for funding of a single activity on one specific site. In the past few years, OWEB has seen an increase in the number of grant applications that propose multiple distinct restoration activities, often involving multiple landowners and properties.

The interpretation of a project equaling a single grant application means that under ORS 541.375(10), all permits for all project activities funded in a single application (a “project”) must be obtained before OWEB can release any money. For example, if an application has proposed a riparian planting on Smith’s property and channel reconstruction on Jones’ property, the grant recipient cannot either begin, or be paid for, the Smith planting until all permits have been obtained for the restoration activities on the Jones property. OWEB has attempted to address this issue by dividing these grant applications into multiple agreements, but that defeats the purpose for the applicant to submit a single application in the first place, namely efficiencies gained through consolidated grant management.

The intent of this proposed concept is to maintain the policy of not paying for activities without documentation that permits have been issued, while giving OWEB the flexibility to more effectively administer complex restoration applications.

#### **IV. Recommendation**

Board action is not requested at this time. Staff will further develop the two legislative concepts identified in this report. These concepts, and any additional staff proposals, will be presented for final Board consideration at the upcoming March meeting in order to meet the April 4, 2008, DAS deadline.