



# Geo-Environmental *Advisory*

<b>TOPIC</b> <i>Environmental Monitoring Budgets</i>	<b>NUMBER</b> <i>GE09-02(A)</i>	<b>SUPERCEDES OR RESCINDS</b>
<b>Original Signed By</b>  <i>Original signed by: Susan Haupt Geo-Environmental Manager</i>	<b>EFFECTIVE DATE</b> <i>05/05/2009</i>	<b>VALIDATION DATE</b> <i>08/04/2014</i>

## *Topic*

This guidance describes the types of expenditures currently allowed under the environmental monitoring budgets that are managed by the Geo-Environmental (GE) Section, to promote consistent and accountable allocation and expenditure.

## *Advisory Information*

### **Background**

The GE Section oversees statewide budgets for post-construction management of our Agency's natural resource mitigation sites and Special Management Areas. These budgets are for post-construction monitoring, reporting, preventative maintenance, and corrective work. Mitigation is often required by permit when a construction or maintenance project impacts a regulated resource. The permit typically requires that mitigation sites meet certain success criteria over time. The permit also requires annual monitoring to evaluate the performance and condition of mitigation sites, for minimum of five years in most cases. Monitoring often reveals that annual maintenance is needed while the site is becoming established. If all of the portions of the mitigation site fail to meet performance criteria, corrective action may be needed.

Construction and maintenance projects, and their respective contracts, often end before monitoring requirements and success criteria have been met. Once a construction contract has been closed, there is no mechanism to fund monitoring, site maintenance, or corrective work necessary for projects to meet permit compliance. Therefore, GE provides the funding for post-construction monitoring and maintenance of ODOT's natural resource mitigation sites, as well as necessary corrective work.

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The use of these funds is limited to post-construction site management of natural resource mitigation sites (e.g., for regulated wetlands, waterways, or listed species) and Special Management Areas. Post-construction site management starts after all construction contract obligations have been met, including grading, placement of habitat structures, landscaping, and contractor obligations for vegetation establishment.

GE obtains and manages the funds and Region employees typically oversee and implement the activities. Budgets for monitoring (including time for field work, reporting, inspecting, overseeing maintenance, and travel expenses) and maintenance are assigned by GE based on region input. Region environmental employees provide cost estimates for post-construction site management for each project, and GE sets-up the appropriate EA/subjob budget based on those estimates. It is the responsibility of Region Tech Centers to ensure accounts are appropriately utilized and not over expended.

GE will be tracking environmental monitoring budgets by subjob, and will periodically report the budget status Region Tech Centers. GE retains the authority to close expenditure accounts when they are expended. Environmental employees may apply for additional budget on an as-needed basis for Corrective Action Budget projects (see Corrective Work).

### **Mitigation Site Management**

ODOT Environmental employees are responsible for coordinating site management (preventative maintenance or corrective work, as defined below) each year during the permitted monitoring period. Management activities may be conducted by ODOT's Maintenance crews, volunteer organizations, or under consultant contracts, in that hierarchy.

The ODOT Environmental employee should coordinate directly with the local Maintenance Supervisor, crew leader, or Consultant to schedule the work. We recommend regular coordination with the Maintenance Supervisor or consultant to ensure the work takes place as agreed-upon, and quality inspections (optional inspection checklist) found on the Biology Monitoring Website:

[http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/pages/biology\\_mon.aspx](http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/pages/biology_mon.aspx)

### **Post-Construction Monitoring Budget**

This is a biennial account for routine monitoring and preventative maintenance (defined below), after the Construction contract is closed (typically upon completion of the first year, after site establishment [see Exclusions]). The expenditure account changes each biennium (Contact the Geo-Environmental Section Monitoring Program Coordinator).

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The post-construction monitoring account currently encompasses three main types of program areas: Biology, Wetlands, and Special Management Areas. Each Region is assigned a separate sub-job for each program area (Table 1).

- The **Biology** program encompasses permitted mitigation associated with the state and federal Endangered Species Act, Essential Salmonid Habitat, non-wetland waters of the US and State, and other biological resources mitigation.
- The **Wetland** program encompasses jurisdictional wetland fill and removal permits from the US Army Corps of Engineers under Section 404 of the Clean Water Act, and the Oregon Department of State Lands under the Oregon Fill/Removal law.
- The **Special Management Area (SMA)** program encompasses protection of designated Special Management areas and botanical sites (locations where protected plants occur on ODOT lands) to meet requirements of the state and federal Endangered Species Act or other land-use requirements (e.g., U.S. Forest Service access permit).

Table 1. Current subjob assignments or the ENVMON expenditure account. Most activities should use activity code J76

Division*	Subjob	Program	Purpose
Regions 1, 2, 3, 4, 5	100, 200, 300, 400, 500 (respectively)	Biology	Routine monitoring and preventative maintenance of biology mitigation sites.
Regions 1, 2,3,4, 5	110,210,310,410, 510 (respectively)	Wetlands	Routine monitoring and preventative maintenance of wetland mitigation sites.
Regions 1, 2, 3,4, 5	120, 220, 320, 420, 520 (respectively)	SMA	Routine monitoring and preventative maintenance of SMAs.

\* ODOT DIVISION = Region Tech Centers or Technical Services

### Preventative Maintenance

Routine or preventative maintenance encompasses minor site management activities after the construction contract has closed, as needed fulfill mitigation obligations. These typically cost less than \$5,000 per year per site (dollar amount subject to change by GE based on inflation). Covered activities include:

- Weed eradication
  - Herbicides, tilling or disking, hand pulling
- Minor re-planting (seeding, hydro seeding, drilling, hand planting, etc.) (less than 50% of original quantity)
- Mowing or pruning
- Minor landscaping, storm water or erosion repairs
- Administrative support (e.g. billing)
- Irrigation

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- Minor fish passage adjustments
- Other routine maintenance actions

### **Corrective Work**

As part of project construction, the project proponent is responsible for ensuring that construction contracts are implemented as specified, and construction-related failures are repaired by the contractor or maintenance unit. Most environmental permits require submittal of a project completion report to document whether the project was constructed according to permit requirements.

Sometimes mitigation failures occur after construction contracts have closed. The **ENVPRJ** expenditure account is for mitigation site failures that need remediation, corrective work, or more than minor repairs to meet permit obligations. The GE Section assigns corrective action accounts to repair failing mitigation sites, on a project-specific basis, creating sub-jobs within the ENVPRJ account. The types of actions allowed with the corrective action budget include:

- Major site re-grading
- Fish passage remediation
- Re-design and installation of landscaping, storm water or erosion controls
- Replacement of greater than 50% of original mitigation plantings
- Re-design and installation of mitigation features (i.e., large wood placement, fish rocks, hydrology)
- Alternative mitigation plan (i.e., purchasing property, payment in lieu of mitigation, purchasing credits at a mitigation bank, new off-site mitigation location including design, construction, monitoring)
- Any routine maintenance work that is expected to exceed \$5,000.00 per site per year (Dollar amount subject to change by GE based on inflation).

Regions may request funding from GE for correction activities when necessary, when the construction account is no longer valid. Use of these funds must be approved by the GE Monitoring Program Coordinator or Natural Resources Unit Manager prior to initiation of the activity, as outlined in the steps below.

- (1) All corrective action budget funding requests must be accompanied by a Site Maintenance and Corrective Action Plan. The latest updated template may be found on the ODOT Mitigation Monitoring Website:

[http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/pages/biology\\_mon.aspx](http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/pages/biology_mon.aspx)

The purpose of the Site Maintenance and Corrective Action Plan is to document the regulatory requirements, need, goals/objectives, and estimated cost of the proposed activities. The plan should entail only work that falls within the definition of a corrective action (defined above) and what is needed to meet permit requirements and project close-out, including subsequent years of maintenance and monitoring, if

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applicable. The corrective action budget will pay for all related consulting services, landscaping subcontractors, alternative mitigation, regulatory liaison review, and in-house environmental and Maintenance services.

(2) All requests for corrective action funds must be submitted to the Monitoring Program Coordinator for approval as soon as possible when the need is identified, and prior to submittal of monitoring reports that describe corrective action commitments.

(3) Upon approval, GE will set up a Corrective Action sub-job.

(4) Once a Corrective Action sub-job has been opened, all approved and associated monitoring, maintenance, and corrective action work should be charged to that account, including contract invoices and Maintenance services.

(5) Task orders should not be approved for payment until the corrective action sub-job is established. Approval of a task order by Region Environmental Managers should be based on the specific details of an approved corrective action plan. Task orders for activities that are not described in an approved corrective action plan need to be coordinated with the Monitoring Program Coordinator to ensure sufficient funds are available, and may require updates to the corrective action plan.

## **Exclusions**

The following types of actions are not allowed with the environmental monitoring budgets:

- Project development, including permit development, permit application fees, regulatory coordination, mitigation site planning/development.
- Project construction, including original capital improvements (i.e., landscaping, physical features such as culverts, fences, access roads, bridges, etc.), construction monitoring, regulatory coordination, construction-related permit modifications, and project-completion reports. These should be funded by the site-specific construction or maintenance budget.
- Contractor-obligated vegetation establishment for up to one calendar year after the site has been planted. Per ODOT 2008 standard specification 01040.70, the Contractor is responsible for the survival of all plant material until the end of a plant establishment period. These standard specifications also apply to maintenance funded projects.
- Routine maintenance of the operational right-of-way, such as those needed for support of the transportation infrastructure or roadside landscaping.
- Property management issues such as littering, trespass, loitering, that either do not threaten the success of the site in regard to permit conditions, or occur at mitigation sites that are already signed-off on by regulatory agencies.
- Maintenance or monitoring of mitigation sites that have met final permit monitoring requirements and performance criteria, and have regulatory sign-off (or where sign-off assumption is documented). Legacy wetland sites may

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- be periodically monitored by GE.
- Post-construction management activities at mitigation banks or mitigation for parks (e.g. 4[f] permits) or cultural resources

Exceptions may be approved by the GE Monitoring Program Coordinator or Natural Resources Unit Manager, on a case-by-case basis, and may involve Department of Justice review.

## *T*arget Audience

This guidance is primarily for Region Tech Center, Environmental units and Geo-Environmental Section Natural Resources Unit. It is typically the responsibility of the Tech Center or GE program coordinator to supply the appropriate EA/subjob/activity code to contract administrators, Maintenance unit managers, and ODOT regulatory liaisons.

## *C*ontact Information

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