



**US Army Corps
of Engineers**®
Portland District



March 8, 2018

Dear State and Federal Agency Partners:

Thank you for your attendance at the February 23, 2018 meeting, *Developing Policy for Oregon's New Aquatic Resources Mitigation Framework* (Framework). Management and staff from the Department of State Lands, U.S. Army Corps of Engineers, and U.S. Environmental Protection Agency presented proposed changes to Oregon's aquatic resource mitigation programs and invited dialogue about the new function- and value-based mitigation Framework. On behalf of the hosting agencies, we appreciate your participation in the meeting, as well as the written feedback provided on the meeting survey and through follow-up emails.

Meeting Goals

Our purpose was to ensure that agency partners understand the goals, components, and timeline of the new Framework. Additionally, this meeting was a forum for representatives from partner agencies to share and discuss the potential overlap between the proposed Framework and their agency's programs.

Host agency staff emphasized that the proposed functions- and values-based mitigation Framework is intended to address deficiencies of the current acreage-based approach and better implement the Federal 2008 Compensatory Mitigation Rules and the State Removal-Fill Law. The presentations included details about decision-support tools, outlined proposed changes to mitigation policy, and provided an example of how wetland mitigation requirements would be determined under the new Framework.

The expected timeline for implementation of the Framework includes public release of the Stream Function Assessment Method (SFAM) in June 2018, DSL rulemaking beginning in spring 2018 with an effective date of February 3, 2019, and DSL-required use of SFAM in permit applications beginning July 1, 2019 (proposed).

Meeting Summary

The host agencies are considering your questions and comments as we further refine the Framework. In addition to informing DSL rulemaking, your input from the meeting, as well as future coordination with your agencies, will help inform internal agency guidance on mitigation related matters. Several key points emerged from the comments and discussion.

General support: *Many participants expressed interest in the decision-support tools being developed for the project and support for efforts to improve mitigation. There are a variety of ways that the tools and policies for the Framework will overlap with other agencies' programs. For example, function assessment methods could be used to inform loan and grant applications and to plan and monitor projects.*

The host agencies appreciate participants' feedback that our efforts to improve information, decision-support tools and policy will help to address known challenges for mitigation programs. We will continue to work with you to identify areas of overlap between partner agencies' programs and the anticipated mitigation tools and policies.

Data: *There is opportunity for the agencies to coordinate about best-available data to facilitate a watershed approach to mitigation (i.e., selecting suitable mitigation sites, protecting special resources, etc.). Agencies that collect and maintain data that would be relevant to the mitigation Framework include Oregon Department of Environmental Quality, Oregon Department of Fish & Wildlife, Oregon Watershed Enhancement Board, and Department of Land Conservation and Development, among others.*

Site selection in a watershed context is key to the success of a mitigation program. The host agencies will continue to work with partner agencies to coordinate about best-available data to facilitate a watershed approach to mitigation.

Communication about intersecting policies: *Mitigation policies will intersect with aquatic resource attributes that other natural resource agencies manage, such as water rights, water quantity, water quality and habitat. Consistent communication among the various state and federal agencies that require permits and mitigation will be important.*

The host agencies will continue to strive for consistent communications with our partner agencies involved in project permitting.

Clear guidance: *Some participants expressed concern that the new requirements for stream function assessments in permit applications will create additional workload for agencies that require permits to implement projects. Participants suggested that host agencies provide clear guidance about how to handle complex projects that (a) include multiple resource types, (b) have benefits that extend beyond the project area (e.g., fish passage projects), (c) are linear projects with numerous stream crossings, (d) are "self-mitigating" or have a "net-benefit", or (e) are on large rivers where SFAM will not be practicable to use.*

The host agencies will recommend policies that consider workload efficiencies for our customers, including our partner agencies involved in project permitting. We will continue to develop guidance on how policies apply to the specific situations mentioned.

The initial stream mitigation program will address wadable and mostly wadable streams; approximately 75% of stream-related permit applications we receive involve these streams. The host agencies will need to work with our partners on our approach to larger rivers.

Mitigation site sustainability: *A participant expressed concern that securing appropriate legal and financial protections for stream projects might prove difficult. A participant suggested requiring instream water rights be in place for stream mitigation banks.*

The host agencies will be exploring appropriate and effective legal and financial protection tools for stream mitigation projects. We recognize that streams may require a different approach than wetlands given land ownerships and the dynamic nature of streams.

Additional information: Meeting participants suggested that the host agencies provide webinars and presentations about the aquatic resources mitigation Framework to staff at partner agencies.

The host agencies post presentations about the Framework and decision-support tools on the [DSL website](#), and we are working to record and post webinars since capacity for one-on-one presentations is limited. Information about upcoming presentations and trainings will also be posted on the [DSL website](#) and announced through our respective distribution lists.

Next Steps

The agencies continue to develop draft policies around wetland and stream compensatory mitigation, and we encourage you to continue providing your comments. You may provide input and continue to stay informed of on-going changes regarding the Framework via DSL's dedicated email box AquaticResourceMitigationProject@dsl.state.or.us, or by contacting any one of the Project Team leads: Dana Hicks at dana.hicks@state.or.us or 503-986-5229; Tom Taylor at thomas.j.taylor@usace.army.mil or 503-808-4386; or Tracie Nadeau at nadeau.tracie@epa.gov or 503-326-3685. We look forward to continuing our dialogue with you.

The presentations and materials from this meeting are available online at:
<http://www.oregon.gov/dsl/WW/Pages/Aquatic-Resources-Mitigation-Framework.aspx>