



Removal-Fill Regulatory Process and Goal 5

**Bill Ryan, DSL Deputy Director
February 2026**



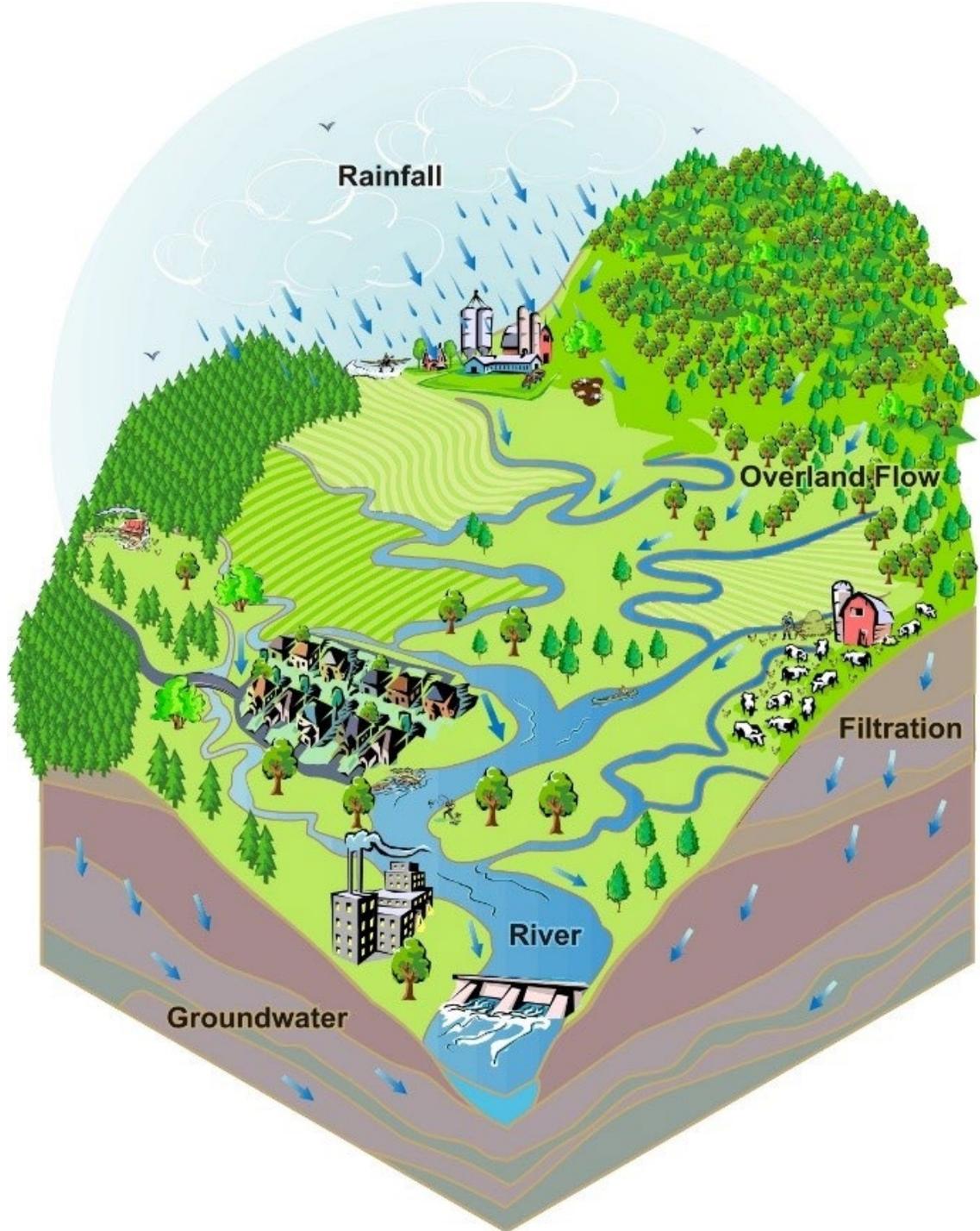
Value of Wetlands





Why We Regulate Wetlands

Willamette Valley
wetlands, streams and
riparian corridors
create ecological
value.



The Willamette Valley is a High-Functioning Watershed

- Collects rain and snow, draining into streams, lakes, and wetlands.
- Valley floors include floodplains.
- Surface water and runoff flow to larger water bodies.
- Recharges groundwater and improves water quality.



*Willamette River,
Oregon*

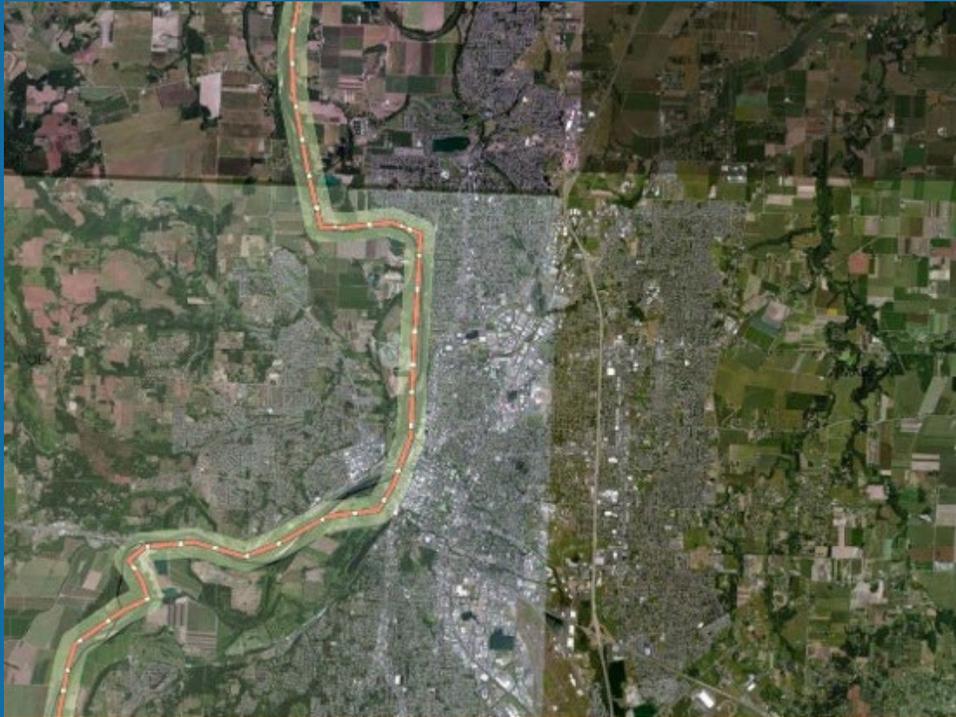
*Oregon Department of Geology
and Mineral Industries*

The Willamette River is a Living System With a History

Wetlands are part of that

- Historical and active channels show the river's dynamic movement.
- Many former meanders have become today's wetlands and ponds.

Flood Plain Dynamics



The Willamette River in its channel near Salem.



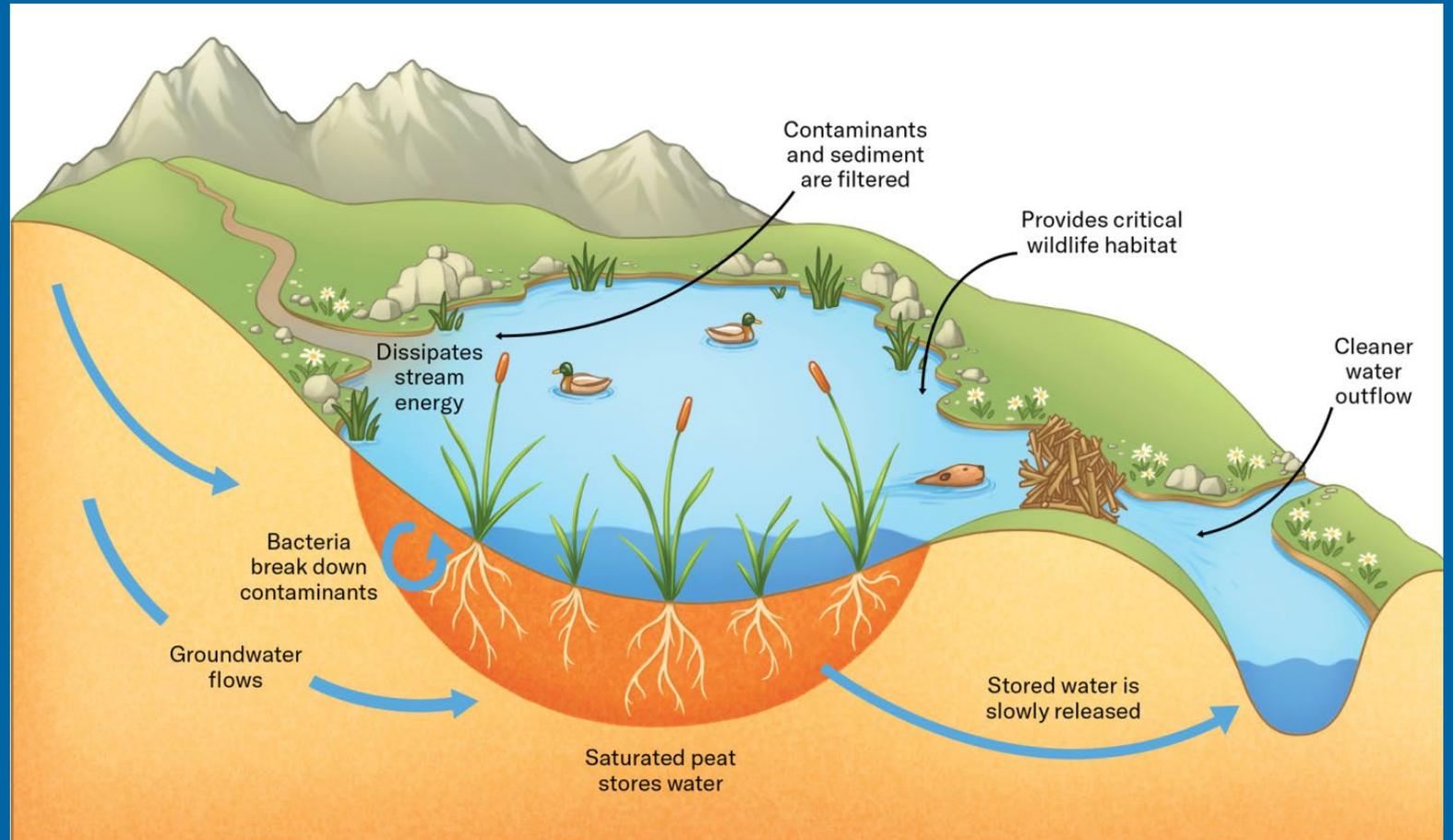
The 100-year flood plain in the same location.

(One percent chance of occurring on any given year.)

Seasonal flooding, high water tables, and strong connections between wetlands and surface waters in the Willamette River system help sustain crops, provide flood storage, and support wetlands.



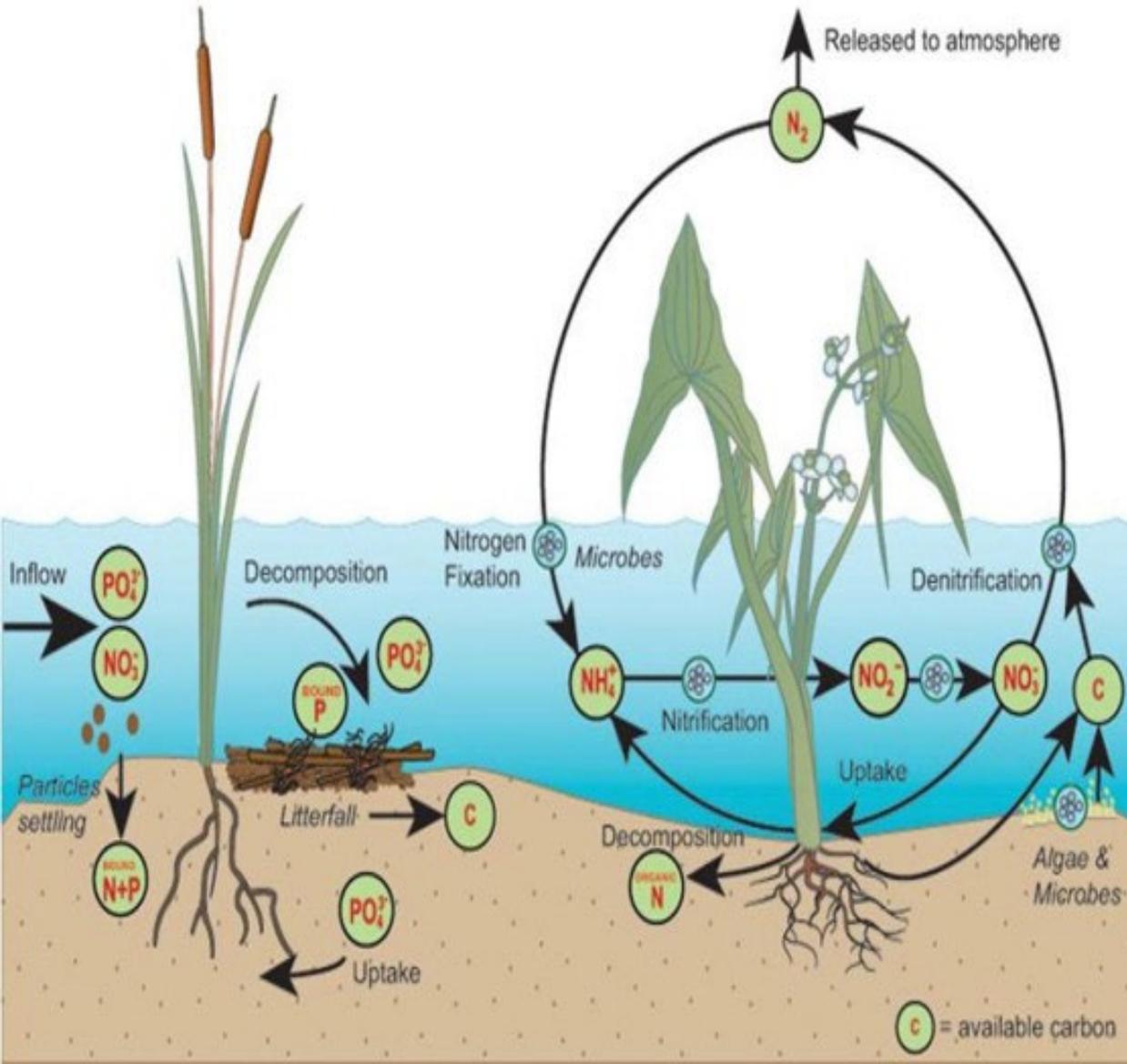
Wetlands and Streams Are Hydrologically Connected



Wetlands Support the Watershed

They provide:

- Water storage and delayed runoff.
- Sediment capture and retention.
- Filtration of nitrogen (N), phosphorus (P), and other nutrients.
- Chemical transport and transformation through N and P cycles.
- Habitat for fish, amphibians, and other water-dependent species.
- Broader ecosystem support.





Wetlands Are Regulated Because They Are Vital and Disappearing

- Oregon has lost an estimated 38% of its original wetlands.
- In the Willamette Valley, about 57% of wetlands have been lost, and losses continue.
- State and federal regulations have slowed the rate of loss, but wetlands still disappear due to exempt activities, certain land-use practices, and unlawful actions.



Legal Definition of Wetland

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

History of Wetland Regulation and Jurisdiction

Removal-Fill Law (Statutory)

1967: Regulated gravel removal to protect state waters

1971: Added fill regulation to protect estuaries

1977: Extended jurisdiction to intermittent streams; AG opinion affirmed freshwater wetland coverage

1989: Comprehensive protection for all Waters of the State

Section 404 Clean Water Act (Constitutional)

1972: Congress created Section 404 to regulate the discharge of dredged or fill material into wetlands and other waters of the U.S.

1977: Federal program fully launched with final Corps regulations

State and Federal Wetland Regulation

State

- **Removal-Fill Law (ORS 196.795–990):** regulates removal and fill in “waters of this state” 50-cubic-yard exemption, except in Essential Salmonid Habitat (ESH).
- **Wetlands Conservation (ORS 196.668–692):** statewide wetland policy, inventory, and conservation plans.

Federal

- **Section 404 of the Clean Water Act:** regulates discharge of dredged or fill material into “waters of the United States.”
- **Section 10 of the Rivers and Harbors Act (1899):** requires Corps permits for any obstruction or alteration of navigable waters of the U.S.

A photograph of a wetland area with a blue text overlay. The background shows a dense thicket of green plants and trees, with a body of water in the foreground covered in a thick layer of green duckweed. The blue overlay is a semi-transparent rectangle on the left side of the image, containing white text.

Contraction of Federal Jurisdiction Under Waters of the United States

- The federal government is reducing its jurisdiction over wetlands and waterways.
- EPA is working to further narrow the definition of “Waters of the United States.”
- Reduced federal coverage increases pressure on states to protect wetlands.

A close-up photograph of a wetland area, showing tall green grasses and large, broad, light-green leaves. The background is slightly blurred, emphasizing the foreground plants. A blue semi-transparent banner is overlaid on the top left of the image, containing the title text.

Comparison of State and Federal Wetland Regulation

- Both use the 1987 Wetland Delineation Manual.
- Federal WOTUS jurisdiction is less certain due to court rulings.
- Only the state has a proactive wetland planning program.
- State exemptions have clearer sideboards, making state jurisdiction easier to interpret.



Removal-Fill Program Purpose

(OAR 196.600-993)

- Regulates removal and fill in “waters of this state.”
- Maintains a stable wetland resource base.
- Applies a no-net-loss policy.
- Mitigation through avoidance, minimization, and habitat creation.
- Encourages additional wetland restoration and creation.

Removal-Fill Permitting Process



Removal-Fill Process Overview

- ❑ Mapped wetlands and waters
- ❑ Wetland Land Use Notice
- ❑ Offsite or Onsite Wetland Determination

Advance notice that wetlands may be present

If a delineation report is required, ~120 days are needed for review

Impacts avoided?

No permit required!

Project impacts wetlands or waters

Activity not exempt

Permitting alternatives:
Timelines may run concurrently with the delineation report review

General Authorization
30 Days

General Permit
~70 Days

Individual Permit
120 Days

Wetland Land Use Notice (WLUN) process

Local government receives an application for impacts proposed in the vicinity of wetlands or waters.

Local Government submits a WLUN to DSL within **five working days**.

DSL reviews and responds to the WLUN within **30 days**. Responses go to the local government and the applicant.

Everyone is aware of the next steps.



Statewide Wetlands Inventory

- ORS 196.672 directs DSL to maintain a Statewide Wetlands Inventory.
- Initial inventories are based on the National Wetlands Inventory.
- DSL must establish uniform rules for wetland identification, delineation, and mapping.
- Inventory maps are updated as new information becomes available.

National Wetlands Inventory VS. Local Wetlands Inventories

Limitations of the National Wetlands Inventory

- Based on older aerial photos.
- Misses wetlands under 1 acre.
- Often omits small, seasonal, flat, and forested wetlands.
- Maps only streams >15 feet wide.
- Excludes farmed wetlands.

Addressing Limitations with Local Wetland Inventories

- Part of Goal 5 planning.
- Field-verified where possible.
- Map all wetlands and waters.
- Use functional assessments to flag significant wetlands.
- Boundary accuracy target: ~5 meters.



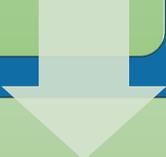
Statewide Wetlands Inventory Web Map

Data Included:

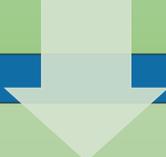
- NWI (USFWS): wetland polygons.
- NHD (USGS): streams and lakes.
- Local Wetlands Inventories (90 approved).
- Wetland Conservation Plan (1 approved).
- NRCS hydric soil units to reduce false negatives.
- Wetland delineation maps being added.

Wetland Land Use Notice (WLUN) process

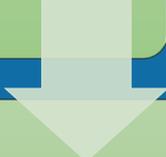
Local government receives an application for impacts proposed in the vicinity of wetlands or waters.



Local Government submits a WLUN to DSL within **five working days**.



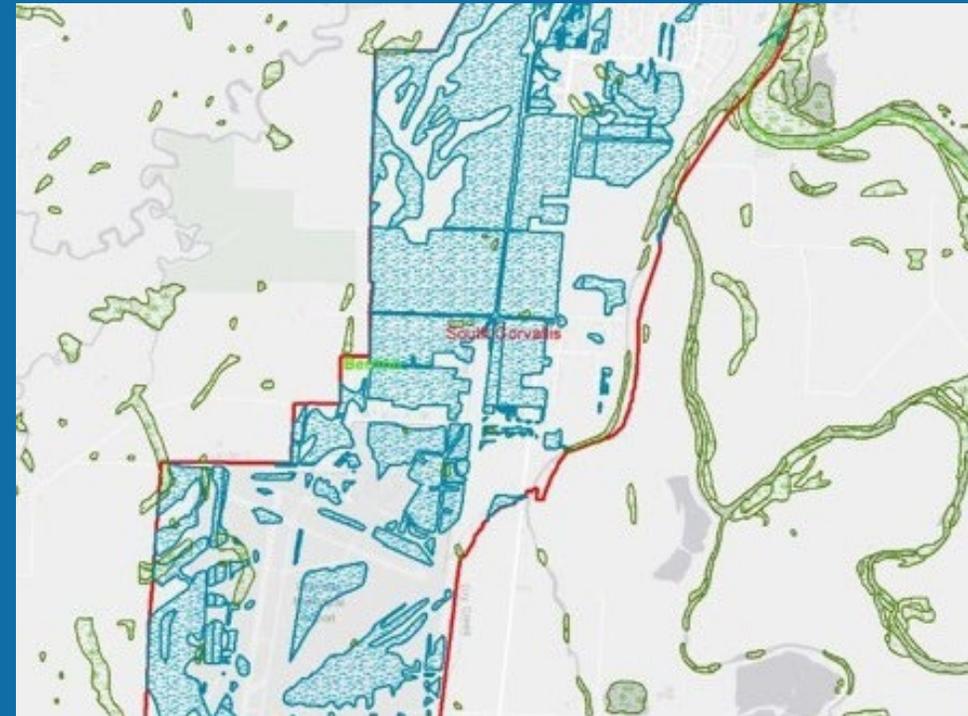
DSL reviews and responds to the WLUN within **30 days**. Responses go to the local government and the applicant.



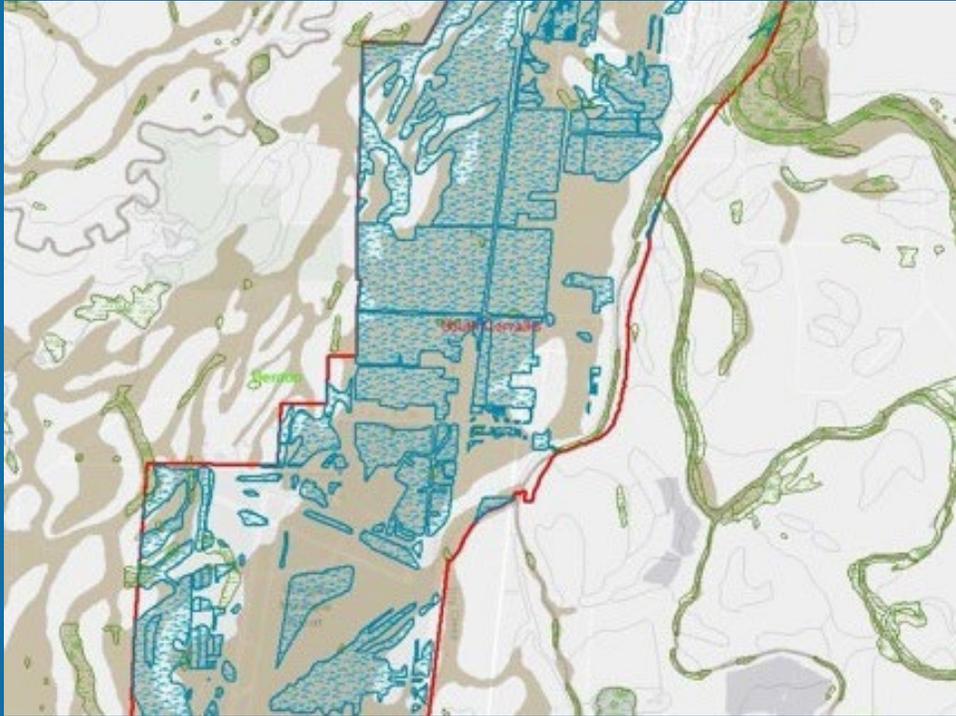
Everyone is aware of the next steps.

South Corvallis

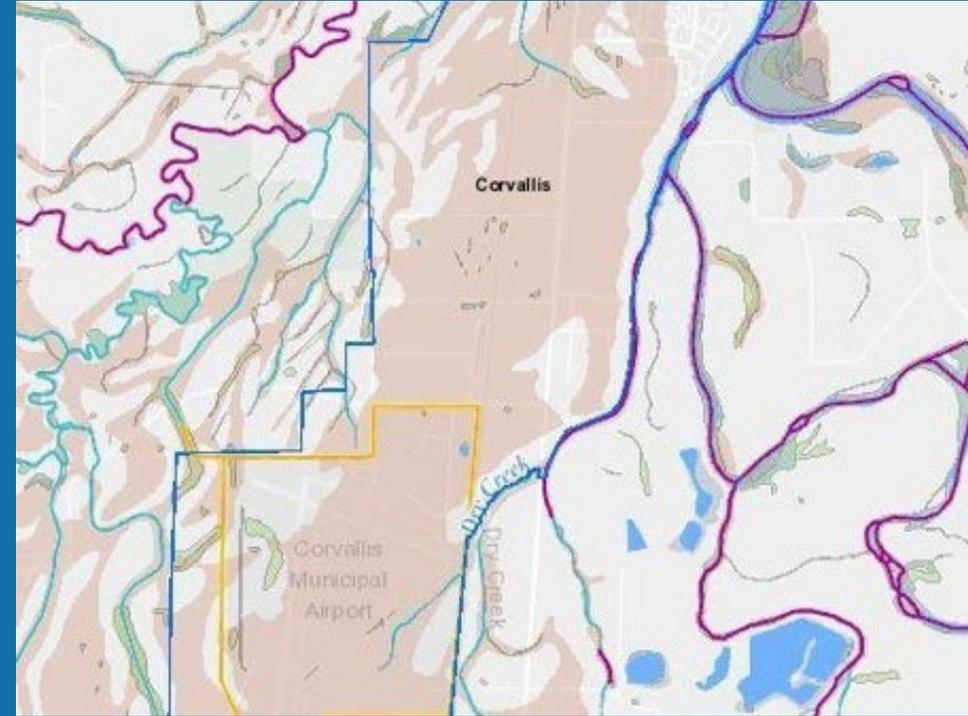
Mary's River & Muddy Creek are missing in NWI – NW Corner



Statewide Wetlands Inventory in South Corvallis



NWI and SWI + Soils (>50% hydric components)



Current SWI build has wetlands and soils. Water features (NHD) are shown on this image. LWIs will be added later.

Removal-Fill Program by the Numbers

Numbers for FY 2025

- Wetland Land Use Notices Received: 867
- Wetland Determinations Completed: 262
- Wetland Delineations Reviewed: 347
- Removal-Fill Permit Decisions: 383
- Acres of Wetland Impact: 54.09

Staff size:

- Aquatic Resource Coordinators (permit reviews): 13
- Wetland Ecologists (delineation reviews): 7
- Operations Managers: 3



Staff at Half Mile Lane Mitigation Site



Removal-Fill Program Integration With and Reliance on Goal 5 Processes

Goal 5 process supports Removal-Fill decisions.

- Identify the location and relative value of wetlands on a landscape level.
- Allow planning to accommodate wetlands and provide local protections for the highest value wetlands - "Locally Significant Wetland" designation.
- Serve as an early warning system.
- LWI informs the SWI.
- WLUN process.



Advance Aquatic Resource Plan

Planning tool adopted in rule (OAR 141-084-0768).

- Voluntary framework to plan ahead for wetland–development conflicts.
- Identifies and evaluates wetlands before project-by-project permitting.
- Supports early decisions that balance conservation and economic needs.
- Establishes a comprehensive wetland mitigation strategy.

Advance Aquatic Resource Plan Benefits & Opportunities

Benefits of AARP

- Regulatory streamlining = faster permit decisions.
- Increased regulatory certainty - scope, schedule, and budget.
- Frontloading analyses - alternatives analyses and compensatory mitigation requirements.

Potential AARP Opportunities

- Two AARPs completed (Cascades West COG, City of The Dalles), focused on industrial lands.
- Limited Corps buy-in, especially on alternatives analysis.
- Expansion opportunities with reduced WOTUS jurisdiction.
- Possible regulatory streamlining when Corps permits aren't needed.
- May be able to pair AARP with Goal 5 wetland work for time and cost savings.



Thank You!

Bill Ryan, Deputy Director
Bill.Ryan@DSL.Oregon.gov

