

# Water-Related Permits Process Improvement Team (WRPPIT)

**Making clear whether and how a project gets to YES & transitioning to a consolidated state permit system.**

## MEETING RECORD

May 3, 2006

2-5, Conference Room B, Labor and Industries Building, Salem

### Members Present:

Jas Adams, DOJ  
Pat Allen, Office of Regulatory  
Streamlining (RSL)  
Ken Franklin, ODOT  
Patty Snow, ODFW  
Kirk Jarvie, DSL  
Laura Leshner, Project Manager, Office of Regulatory  
Streamlining (RSL)  
Gary Lynch, DOGAMI  
Christine Svetkovich, DEQ

### Consultant:

Jenny Carmichael, Carmichael Consulting

### Members Absent:

Kim Grigsby, Water Resources

### Intermittent Members Not Present:

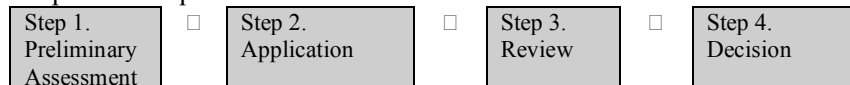
Dale Blanton, DLCD  
Tony Stein, OPRD  
Susan White, SHPO

### AGENDA

2:00 **Approve April 28 Meeting Record, Reminder Assignments, Updates** Jenny

2:15 **Work Definition** Jenny

Identify the work, work volume, who should do the work, and where for the process steps.



- What is the work?
- What are the deliverables?
  - Work volume?
    - Who?
- Process/product lead?
  - Where?
  - Other?

3:50 **BREAK**

4:00 **Continue previous agenda item as needed** Jenny

? **IF TIME: Continued from Last Meeting – 1200-C: Stormwater Management Permit** Jenny

DSL's current water quality requirements (application and conditions)

Finish answering the following question:

*“What changes would you recommend to the Legislative Audits Committee to improve coordination between removal-fill and 1200-C in order to eliminate confusion, duplication & inconsistency while making the process cheaper and easier for applicants and the state?”*

4:55 **Meeting Wrap-Up** Jenny

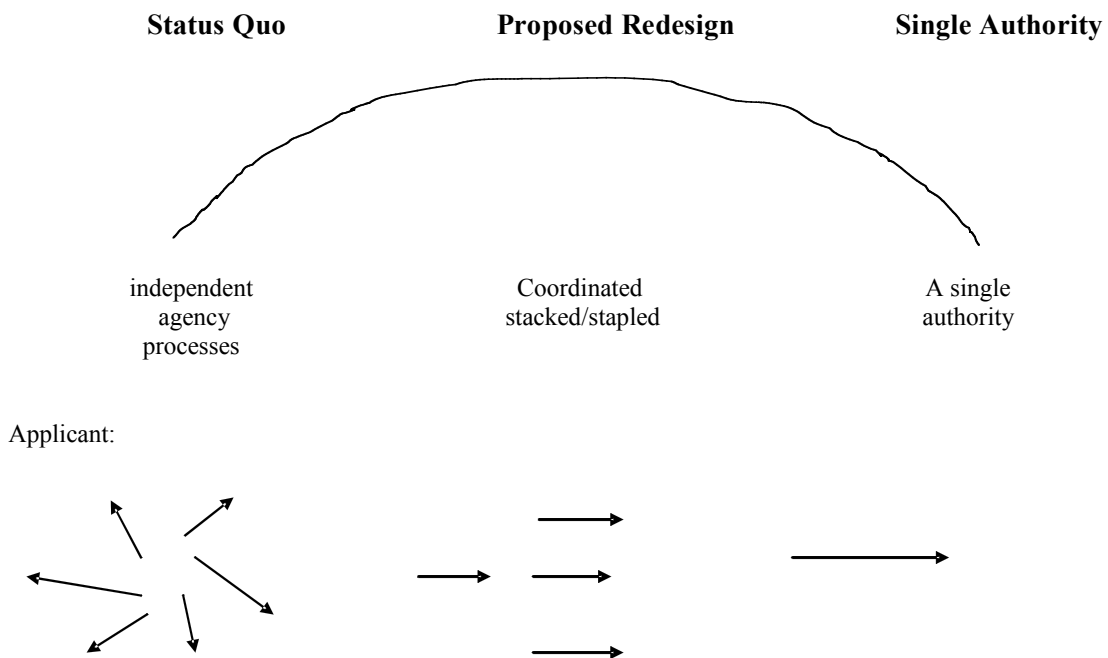
**Next Meeting:** May 3, 2-5, Conference Room B, L&I Building

**MEETING RECORD**

1. **Approval of April 28 Meeting Record, Reminder Assignments, Updates.** These agenda items will be addressed at a future meeting.
2. **Early Draft of Next Directors Update.** Jenny shared a very preliminary draft of a potential June update to the Directors of WRPPIT participating agencies. Topics to be addressed included:
  - cornerstones update
  - process flow – as is/to be
  - Summary of implications
  - MOU – topical outline
  - Assumptions Validation
  - Implementation Plan
  - Statute/Rule Changes

The team discussed the best time to meet with the Directors. All felt the next update should be in the fall when recommendations are complete.

3. **Oregon Removal Fill Permit and Appeals.** The team discussed implications of the redesigned “Oregon Removal Fill Permit” related to appeals. The team developed continuum of possible ways to view the “Oregon Removal Fill Permit”:



**STATUS QUO:** On the far left is current reality. Each agency has its own process and independent authorizations. The applicant must approach each agency separately. No one at the state is responsible for coordinating the state’s requirements.

**PROPOSED REDESIGN.** The middle view is the proposed redesign to date except for DEQ, DLCD, and Water Resource permits which will be discussed below. There is to be one process for obtaining an Oregon Removal Fill Permit. Applicants need to obtain the Oregon Removal-Fill Permit from DSL which will include all state requirements (with reference to DEQ, DLCD, and Water Resources requirements). The following state authorizations will be attachments to the Oregon Removal-Fill Permit if they are required:

ODFW – In-Water Blasting Permit, Scientific Take Permit, ESA Incidental Take Permit, Fish Passage Waiver/Exemption, and Fish Passage Plan Decisions  
 DOGAMI – Operating Permit

Because these specific authorizations will be issued by the named agencies, conditions contained in any attachment to the Oregon Removal Fill Permit will be separately appealable.

In addition to the Oregon Removal-Fill Permit, applicants will need to separately obtain the following authorizations. To achieve as much state coordination with these permits as possible, DSL will give notice of requirements expected to be required with these authorizations, assuming the project does not change.

DEQ – 401 Water Quality Certification  
 DLCD - Coastal Zone Management (CZM) Federal Consistency Review  
 WATER RESOURCES DEPARTMENT – Water Use Authorization

The above authorizations have not been included in the redesigned Oregon Removal Fill Permit because the DEQ and DLCD authorizations are part of a federal process, triggered by a federal action, and can often take a year or more to complete. The Water use authorization is not included because only about 10% of removal-fill permits require a water use authorization, generally take eight months to complete, and it is a property right. These authorizations will also be separately appeal-able to the agency that issues them.

SINGLE AUTHORITY. The proposed Oregon Removal-Fill Permit does not go so far that all conditions will be requirements of a single agency, appeal-able only to that agency.

**4. 1200-C: Stormwater Management Permit.**

*“What changes would you recommend to the Legislative Audits Committee to improve coordination between removal-fill and 1200-C in order to eliminate confusion, duplication & inconsistency while making the process cheaper and easier for applicants and the state?”*

The team developed possible answers to this question at its April 17 meeting. The team categorized the potential answers as follows:

Yes	Discuss	No
4. Provide info early in the process.	3a. If 1200-C, DEQ; if not 5 DSL H2O conditions	9. Turn stormwater management back to EPA.
2. DEQ educate about 1200-C	3b. Same as 3a + DSL bundles 1200C & ORFP	1. DOGAMI model – DSL agency of DEQ.
5. Line up NMFS, DEQ, DSL, etc. erosion control requirements (Elevate this to Governor’s Natural Resource Advisor)	7. Put this off to next phase of WRPPIT.	6. Reduce DEQ responsibilities or add resources.
	10. Take DSL out of water quality review – it’s DEQ’s job.	8. Contract 1200-C work, pre-certify; avoid conflicts of interest.
	11. Items 10 & 3b. Two places applicants go.	

As a follow-on to its prior meeting discussion, the team discussed at length possible ways to integrate 1200-C requirements into the Oregon Removal-Fill Permit. Kirk distributed DSL’s five standard water quality conditions. Today SPGP’s include about 11 pages on water quality, including an erosion control

plan. Prior to the implementation of SPGP, DSL required about 2 pages. Much of this language is required by the federal agencies involved. DSL is evaluating its direction regarding SPGP. One option under consideration is to renegotiate SPGP terms.

The team concluded the following:

- a. SPGP's. DSL and DEQ will line up erosion control requirements so that requirements in a 1200-C permit match what is used in an SPGP. DSL and DEQ will also work with NMFS to try to use the same erosion control plan requirements across all three organizations.
- b. Individual Permits (All Other Applications):
  - 1) **If a 1200-C is required:** *the 1200-C application will be part of the Oregon Removal Fill Permit process, including public review. The 1200-C will be an attachment to the Oregon Removal-Fill Permit.\** DSL will not require an erosion control plan or include its standard 5 water quality conditions in the Oregon Removal-Fill Permit.
  - 2) **If a 1200-C is not required:** DSL will include its standard 5 water quality conditions in the Oregon Removal-Fill Permit.

(*italicized phrases above require further team discussion. The process selected will need to work with DEQ's process that exists for the majority of 1200-C applications that do not require an Oregon Removal-Fill permit.* )

**5. When does the State Regulatory Expert need to invite ODFW and DEQ to a pre-application meeting?**

Answer:

Any project that is more than 2 acres. Any project that is in-stream, involves gravel, wetlands, or an estuary. Any project that is complex, controversial, or unusual that involves water quality issues.

In addition for DEQ will be invited for any project where a 401 is required, dredging or contamination is involved, or any ERT project. DSL should contact DEQ's 401 coordinator who will then ensure that the right person(s) from DEQ participate.

In addition for ODFW: any project where fish passage or significant habitats or fish and wildlife issues (e.g. – spawning area, listed species, ESA's) are involved.

DEQ and ODFW do not necessarily need to be invited to a pre-application team meeting for the following projects:

- SPGP or GA eligible projects
- ODOT projects
- Small wetland restorations

It will be useful to ask the other agencies involved in the Oregon-Removal Fill permit to identify triggers for their involvement in a pre-application team meeting.

**6. State Regulatory Expert Position Description.** The team reviewed the work identified for the State Regulatory Expert(s) contained on page 3 of the April 14 WRPPIT Meeting Record. Kirk will draft a position description for a single State Regulatory Expert for the team to review at its next meeting. The deadline for POPS is May 31. The position descriptions for resource coordinators may also need to change to address some of the SRE responsibilities if all of the work cannot be performed by one person.

**7. Memorandum of Agreement.** Team members will begin working on language to describe their

commitments to the redesigned Oregon Removal-Fill Permit process and product. The MOA will need to specify who is responsible for what and when. Lead times, the nature of information needed, and other expectations should be addressed.

**8. Meeting with Resource Coordinators and Other Staff .** The team wants to meet with resource coordinators and key staff of other agencies once the work involved for each step of the redesigned process has been discussed. ODFW staff attendees might be the four habitat coordinators on the west side. An overall agenda for the meeting was identified:

- a. Context
- b. Content
- c. What we want input about
- d. Input
- e. Next steps.

**9. Wrap-Up.**

The meeting concluded at 5 pm. The next meeting will be May 10, 9-noon, 2<sup>nd</sup> Floor Conference Room, Labor and Industries, Salem.