



# *Regulatory Streamlining Initiative*

Office of Regulatory Streamlining, Department of Consumer and Business Services

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## **WATER-RELATED PERMITTING**

**Improving the State of Oregon's Process  
for Permitting Development Projects  
that Affect Oregon's Water Resources**

# **Executive Summary**

October 2006



## Executive Summary

**The Problem.** When someone in Oregon wants to modify property connected to Oregon waterways or wetlands – such as constructing a building, stabilizing a stream bank, installing an irrigation ditch, constructing a road -- he or she may be required to approach seven state agencies for water-related permits or reviews. Each regulated activity has a different timeframe and some can require the permittee to do conflicting things. In addition, unknown requirements can unexpectedly surface late in a project, requiring significant rework and added cost. Project proponents are seeking a customer-oriented state regulatory process that maintains the current level of resource protection, but that also defines all requirements early in the process and leads to clear, non-conflicting permits within a known timeframe.

**Improvement Team Charge.** In March 2005, directors of natural resource agencies involved in water-related permits and reviews charged a multi-agency team with the task of improving the regulatory experience for project proponents seeking state water-related permits. The Water-Related Permit Process Improvement Team (Improvement Team) focused on the DSL Removal-Fill Permit process as the nexus for many state agencies' water-related permit requirements and worked to improve the processes, but not to change the current level of natural resource protection. The team was also instructed to focus on improving what it could change: state regulatory processes. Once state processes were improved, the project could then be expanded to address the state's connection to local and federal processes. The Legislature endorsed this work by adding a budget note to the 2005-2007 natural resource agency budgets to require updates on the water-related permit streamlining efforts to the Joint Legislative Audits Committee in April and November of 2006.

**Brochure.** The Improvement Team began by developing and distributing 8,300 copies of a brochure to local, state, and federal agencies. The brochure identifies all state requirements for development projects that affect Oregon waters. It was created to help property owners understand, at the beginning of their project, all government requirements that could apply. This brochure is widely used today by property owners as well as state, local and federal agencies.

**Staff Training.** The team also facilitated geographically based multi-agency customer service and negotiation training sessions for more than 170 staff from seven natural resource agencies to promote quality service to water-related permit customers.

**Stakeholders.** The Improvement Team then validated customer concerns with five stakeholder groups (farm and forest; local government; development; environmental, aggregate) and a Water-Related Permits Advisory Committee. The Water-Related Permits Advisory Committee included several past applicants, including consultants to applicants, and representatives of the development community, realtors, aggregate producers, environmental and public involvement organizations, agriculture, and local government. Top customer concerns included lack of clear information at the beginning of the permitting processes, conflicting requirements, and sequential time-consuming processes.

**Wetland Delineation Reviews.** The Advisory Committee consistently emphasized that an important improvement to the water-related permit processes would be timely wetland

delineation reviews. To that end, the Department of State Lands (DSL) will be submitting a proposed fee bill to the 2007 Legislature to fund two new FTE to perform wetland delineation reviews on a more timely basis.

**Proposed Redesigned Process.** Over the past year the Improvement Team developed a process proposal designed to address top customer concerns and to make the process for complying with removal-fill and related state agency regulations simpler, faster and cheaper. Key features of the redesign proposal are compared to today’s experience for project proponents below:

Project Proponent Experience	
Today	Proposed Redesigned Process
<b>1. ONE STOP FOR EARLY &amp; COMPREHENSIVE INFORMATION</b>	
<ul style="list-style-type: none"> <li>▪ Project proponents may need to contact as many as 7 agencies to gather information on as many as 15 state water-related authorizations and reviews, or hire professionals to do it for them in order to determine what is required for their project.</li> </ul>	DSL will offer one stop service for early information on the range of state agency requirements that are likely to apply to a project.
<ul style="list-style-type: none"> <li>▪ A single resource does not exist to provide concise information on all state requirements for water-related projects.</li> </ul>	A User Guide has been written for project proponents as well as staff administering state regulations. This is the first time comprehensive information has been available in one place on state water-related requirements for a broad range of project types.
<ul style="list-style-type: none"> <li>▪ Few opportunities exist for early design input from the state.</li> </ul>	Early guidance will be available allowing a project proponent to design a project with all state requirements in mind.
<ul style="list-style-type: none"> <li>▪ The quality of a pre-application meeting is solely the responsibility of the project proponent. Participation by state agencies is uneven.</li> </ul>	DSL will ensure pre-application meeting quality including mandatory involvement by applicable agencies, dissemination of briefing materials, and documentation of meeting results.
<b>2. INTEGRATED APPLICATION PACKET AND PROCESS</b>	
<ul style="list-style-type: none"> <li>▪ Seven agencies manage multiple separate approval or review processes often with separate application requirements.</li> </ul>	DSL will manage one process with a project specific application package covering many state requirements. Separate applications and processes will continue to exist for DEQ erosion control permits and 401 water quality certifications, DLCDC Coastal Zone Management Act (CZMA) consistency certifications, and most WRD water use authorizations because they are more appropriate later in a project, have a longer timeframe, or because they are part of federal processes. However, applicants will be informed early in the process if these

	requirements apply to their project.
<ul style="list-style-type: none"> <li>DSL assesses removal-fill applications for completeness based solely on DSL's needs.</li> </ul>	DSL will assess a consolidated application packet for completeness including other applicable agencies' key requirements.
<b>3. NON-CONFLICTING REQUIREMENTS</b>	
<ul style="list-style-type: none"> <li>Agencies review and comment on removal-fill applications independently, issue separate authorizations, and are sometimes unaware of other agencies' issues and requirements. Project proponent is responsible for reconciling conflicting/overlapping requirements.</li> </ul>	Applicable agencies will review applications as a resource team and prepare one set of reconciled comments for the project proponent. The team will do its work with the benefit of public comments. Agencies will reconcile permit conditions. A conflict resolution process will exist for agencies and for applicants.
<ul style="list-style-type: none"> <li>Overlapping agency jurisdictions can result in redundant and conflicting requirements for project proponents.</li> </ul>	An agreement will be in place that identifies DEQ's erosion control requirements as the only conditions needed when an erosion control permit is required.
<b>4. INTEGRATED FINAL PRODUCT</b>	
<ul style="list-style-type: none"> <li>The DSL Removal-Fill Permit addresses needs and requirements of primarily DSL.</li> </ul>	An Oregon Removal-Fill Permit (ORFP) will integrate multiple state water-related regulatory requirements as agreed to for the Pilot.
<b>5. CONCURRENT VS. SEQUENTIAL TIMEFRAMES</b>	
<ul style="list-style-type: none"> <li>Many and distinct authorizations can be done sequentially resulting in an extensive time window to obtain all permits. Currently, the DSL Removal-Fill Permit includes up to 4 reviews.</li> <li>If permits are not issued concurrently a project may proceed without all requirements known. When a requirement is identified late in the process, compliance can cause costly project delays. The project may also be required to wait for sequential approvals.</li> </ul>	Up to eleven authorizations will be included in the ORFP Pilot Process as required by a particular project within a known timeframe, any other requirements expected to apply will be identified early in the Pilot Process.
<b>6. CONTINUOUS IMPROVEMENT INFRASTRUCTURE</b>	
<ul style="list-style-type: none"> <li>Agencies administer separate processes that have evolved over time. No single agency is responsible for improving process coordination among the natural resource agencies.</li> </ul>	With DSL as lead, a multi-agency Pilot Management Team will be evaluating the effectiveness of the redesigned integrated process and will be responsible to continuously improve the pilot results.

**Pilot Project.** In order to implement the proposed redesigned process, DSL will be submitting a policy option package for 1 FTE to the 2007 Legislature to equip DSL to fulfill the coordinating role outlined in the proposed redesign on a pilot basis. Once the policy option package is approved, it is the intent of DSL and other participating agencies to test the redesigned process on a pilot basis. The pilot will focus on projects that could most benefit from multi-agency

coordination. The pilot is anticipated to include about 50 removal-fill applications a year (approximately 20% of individual permit applications received per year). Participation in the Pilot is on a voluntary basis. To be eligible, a project will require substantive involvement by at least one other agency besides DSL and involve a significant aquatic resource. The pilot period will begin after Legislative approval and continue through December 31, 2009. If the pilot is successful, Oregon's natural resource agencies will evaluate whether to apply the redesigned process to a broader group or potentially all removal-fill permit projects and related permits, and determine the staffing levels necessary to implement the program on this broader scale. Consideration will also be given to creating beneficial connections to local and federal processes.

**Stakeholder Response.** Individual and group project updates were held with the WRPPIT Advisory Committee Members in September and early October. The response was generally positive with emphasis in the following areas:

Stakeholders agreed that providing project proponents early information regarding the natural resource issues applicable to the type and location of their project at pre-application meetings with mandatory attendance by the effected state agencies was a solid improvement. They also saw the written summary of the natural resource issues and options for addressing natural resource concerns as value added to project proponents.

In addition stakeholders saw value in the multi-agency technical review to coordinate the natural resources concerns and should result in consistent conditions across the various state permits and authorizations.

Stakeholders were also clear, however, that they needed to see demonstrated improvements in the process before they would be willing to consider support for expanded resources for DSL or other agencies. As a direct result, an implementation plan has been developed in an effort to deliver preliminary results prior to budget discussions in the 2007 legislative session.

**Results.** The most significant achievement of the Water-Related Permits Process Improvement Project is to outline a model for delivery of a multi-agency regulatory process that takes into consideration the needs of those who are regulated. Instead of going to multiple agencies, multiple times, for multiple and sometimes conflicting permits and timelines, project proponents will have one place to go to obtain information on State of Oregon water-related regulatory requirements related to their project. In addition proponents of qualifying projects will have one place to go for most of these authorizations, and guidance on all of them. This approach should also provide greater opportunity for development of project designs that effectively meet both project proponent needs and natural resource protections. In addition, a multi-agency management infrastructure is in place to test the process on a pilot basis, to assure continuous improvement, and to evaluate broader application.

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