

Oregon Coastal Coho Assessment

Part 3A: Policy for the Evaluation of Conservation Efforts: The Certainty That the Conservation Effort Will Be Implemented

State of Oregon¹

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I. Introduction

In October 1995 Governor John A. Kitzhaber, M.D. directed state agencies to cooperate in the development and implementation of a state led initiative to restore coho salmon in two Evolutionarily Significant Units (ESUs) that encompass the entire Oregon coast. The effort was a

response to a proposal by the National Marine Fisheries Service (NMFS) to list coho salmon as threatened under the Endangered Species Act (ESA) in these ESUs. As the work progressed in 1996 he invited federal natural resource agencies to join the effort.

Although initial work focused on the details of improving the status of coho salmon in the coastal ESUs, early work led to the realization that the life history needs of the species could only be met by addressing the underlying issue of watershed function. Several basic issues were all crucial to species restoration and all were considered by the state in the design of a comprehensive restoration program:

- limiting the adverse impacts of fisheries;
- reducing the adverse impact of hatchery operations; and
- providing sufficient amount and quality of habitat to support the species' needs for spawning, rearing and migration.

Whereas the first two issues could be addressed through direct agency management action, providing for the habitat needs of the species required a landscape, or whole watershed approach, to management. Salmon require suitable habitat to support their life history needs from headwater streams to the ocean, a range of habitats that is crisscrossed by multiple ownership and land use characteristics. Thus, providing for the habitat needs of the fish could not be accomplished within any single agency's administrative jurisdiction or within any single land ownership or land use category. Sustainable coho populations require suitable habitat networks (watersheds) simultaneously influenced by local, state and federal agencies, and that regulate economic activities including forestry, agriculture, recreation and urban development.

Oregon's initial conservation planning effort quickly evolved along the following approach:

- First, address the species' need for conservation by making appropriate adjustments to fish harvest and hatchery programs (actions within the jurisdiction of the Oregon Department of Fish and Wildlife);
- Second, address the species' life history needs by making appropriate adjustments to watershed management (conservation, restoration, and enhancement of habitat within the jurisdiction of all state and federal agencies with regulation, management or ownership responsibility within the ESU); and
- Finally, enlist private landowners and other citizen stakeholders to actively support and participate in watershed restoration work.

The effort was expanded in 1996 to include plans to address water quality problems, through the Healthy Streams Partnership, under the federal Clean Water Act (CWA). In 1996 14,000 miles of stream and over 20 lakes were listed statewide on Oregon's 303(d) list of water quality impaired water bodies.

Former Governor John A. Kitzhaber, M.D. worked with his natural resource policy staff and the Natural Resource Cabinet to prepare a plan to address the conditions that were reflected by both ESA and CWA problems through a state-led strategic initiative. The original plan, called the Oregon Coastal Salmon Restoration Initiative (OCSRI), was later expanded to include a Steelhead Supplement after proposed listings in four ESUs in Oregon. Finally, the approach was expanded to all at-risk salmonids through Executive Order 99-01, following another round of proposed ESA

listings. What is now called the Oregon Plan for Salmon and Watersheds (OPSW) includes the original strategic objectives, and all salmonid species and the watersheds that support them.

The Oregon Plan that was adopted by the Oregon Legislature in March 1997 was a combination of actions designed to address the fishery management and watershed based life history needs of coho salmon. Everything in the habitat area of the Plan was intended to conserve and restore watershed function (including water quality). None of the habitat work was intended to improve the condition of coho at the expense of other species. Every element of the habitat work contained in the plan was intended to provide for conservation and restoration of watershed function.

Some of the foundation for this effort was built before 1995, including the passage of SB 23 in 1987, creating the Governor's Watershed Enhancement Board (GWEB) and HB 2215 in 1993, calling for the creation of local voluntary watershed councils. These bills formed the basis for watershed restoration funding, developing and implementing local watershed assessments, action plans, projects and monitoring. Also passed in 1987, the Instream Water Rights Act allowed agencies to apply for instream water rights to protect recreation, water quality and fish and wildlife habitat. In addition, SB 1010, passed in 1993, created a mechanism for addressing water quality problems associated with agricultural lands. Sufficient funding for addressing the expanded 303(d) listed streams was provided in 1997 as part of the Oregon Plan.

In addition, Oregon Department of Fish and Wildlife (ODFW) had already adjusted hatchery operations and harvest levels in response to declining coho populations on the coast before 1997. And many of Oregon's environmental statutes were enacted in the 1970s, 1980s and early 1990s providing better protection of watersheds, water quality and the many fish and wildlife populations that depend on healthy watersheds.

In 2003 the state initiated an assessment of the effectiveness of the Plan, beginning in the Oregon Coast coho Evolutionarily Significant Unit (ESU). Our purpose, first and foremost, was to assess the effectiveness of the Oregon Plan to determine how the state was doing in its efforts to restore Oregon Coast coho.

Part of this assessment includes analyzing the biological status and effectiveness of the conservation efforts under the federal Policy to Evaluate Conservation Efforts (PECE). NOAA Fisheries has again proposed Oregon Coast coho for a threatened listing as a result of a series of court decisions affecting the original listing determination. After considering abundance, productivity, persistence, distribution and diversity of Oregon Coast coho, the state's analysis of the biological status of Oregon Coast coho indicates that this population is a viable population.

Under the ESA, the federal agencies must "take into account those effort, if any, being made by any State...to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas" when making a listing determination. (16 USC 1533 (b)(1)(A)) The PECE lays out criteria for reviewing certain conservation efforts by states or others in making a listing determination. The state has analyzed those conservation efforts relating to Oregon Coast coho that have not yet been fully implemented or that have been implemented but where the full effects of the conservation effort is not yet known using the PECE framework.

It is important to note that this phase of the assessment is *not* an analysis of the sufficiency of the Oregon Plan to constitute a recovery plan for the species under the federal ESA.

The Oregon Plan included a specific monitoring approach to be carried out by certain agencies including ODFW, DEQ and ODF in particular. This assessment is the first attempt to pull together all the monitoring data collected since the start of the Oregon Plan in 1997 with baseline data and analyze the status of the species to determine where we stand with our efforts to address the factors for decline for Oregon Coastal coho outlined in 1997. Once this assessment is completed, the plan will be adapted as needed to address continuing concerns or new concerns raised by the analysis. The analysis will point out areas of effective use of resources and areas needing adjustment.

It is expected that the monitoring program will be adequately funded to continue into the future, allowing the state to detect any changes in conditions that need to be addressed through revisions to Oregon Plan actions.

III. Policy to Evaluate Conservation Efforts (PECE) Analysis

A. The certainty that the conservation effort will be implemented

As part of this assessment of Oregon Coast coho, the state has assessed its regulatory and non-regulatory conservation programs under the federal Policy for the Evaluation of Conservation Efforts When Making Listing Decisions (PECE Policy). This policy focuses on conservation efforts that have yet to be implemented, and those that have been implemented but that have yet to show their full effect. Oregon has been implementing the Oregon Plan since 1997, beginning with the Oregon Coastal Salmon Restoration Initiative (OCSRI) to address Oregon Coast coho, and has developed a seven year track record upon which to draw, adding strength to the certainty that the state can and will continue to implement its conservation efforts to restore these salmonids to sustainable and harvestable levels.

In addition, many conservation efforts had been undertaken prior to the Oregon Plan that were intended, at least in part, to address legacy issues adversely affecting salmonids and watershed health in Oregon. These include enactment of land use laws, forest practice laws, water quality laws, and fill and removal laws in the 1970s, as well as significant changes to fish harvest management and hatchery operations in the early 1990s.

In order to analyze the certainty that the conservation effort will continue to be implemented, the state identified the state and federal programs that make up the state's conservation effort and analyzed each under the PECE Policy criteria. These include:

- Forest management programs, including state forest management, private forest management and federal forest management under the Northwest Forest Plan;
- Water quality programs, including monitoring, updating water quality standards, NPDES permitting, water quality certification for instream work and removal and fill activities, nonpoint source pollution prevention programs, developing Total Maximum Daily Loads (TMDLs) and implementation plans, and providing technical and financial assistance;

- Agricultural management programs, including Agricultural Water Quality Management program, Confined Animal Feeding Operation program, Pesticides program, Weed Control and Invasive Species programs, and Soil and Water Conservation District programs;
- Water use programs, including monitoring and distributing water for instream water rights, and regulation of water rights;
- Fisheries harvest management programs;
- Hatchery management programs, including the state's Hatchery Management Plan and Native Fish Conservation Policy;
- Dredge, fill, and in-water construction programs, including the Removal-Fill Program, Wetland Management and Planning Program;
- Urban Growth Management, including the Statewide Planning Program and Statewide Planning Goals for Agricultural Lands, Forest Lands, Urbanization, Natural Resources and Estuarine Resources; and
- Watershed restoration programs.

The PECE lays out nine criteria by which the federal agencies will evaluate the likelihood that a conservation effort will be implemented. Below are the nine criteria with a summary analysis of the state's conservation programs and overall conservation effort. Following the summary analysis are the individual agency reports with their full analyses of the likelihood the agency will be able to implement or continue to implement its conservation efforts as part of the overall Oregon Plan for Salmon and Watersheds in the Oregon Coast coho ESU. In addition, the full report on Oregon's watershed restoration program in the ESU is included.

PECE Policy Criteria and Analysis

- 1. The conservation effort, the party(ies) to the agreement or plan that will implement the effort and the staffing, funding level, funding source, and other resources necessary to implement the effort is identified.*

In 1997 the Oregon Legislature passed a series of bills implementing and funding the Oregon Plan. In HB 5042 \$30 million was provided to fund new state agency staff (63 FTE) at several natural resource agencies, watershed council capacity building, and on the ground project work. This was the full amount requested to implement the plan in the Oregon Coast coho ESU. HB 3700 established a supplemental timber tax to provide \$13.6 million of the \$30 million with the condition that the tax would only apply if no coastal salmonids were listed in ESUs wholly within Oregon's borders. A fishing license surcharge provided \$1 million and the Oregon Concrete and Aggregate Producers' Association (OCAPA) provided \$400,000. The remaining funding came from the state's general fund. When Oregon Coast coho were listed in 1998, and the timber tax was repealed as a result, the Emergency Board stepped in and filled the remaining funding gap (\$8.8 million) with additional general fund resources.

Also in 1997, SB 924 defined the Oregon Plan as the OCSRI program and activities and the Healthy Streams Partnership Agreement (to meet Oregon's CWA responsibilities). The bill also

established an oversight framework that included the Joint Legislative Committee on Salmon and Stream Enhancement, the Independent Multidisciplinary Science Team (IMST), the Healthy Streams Partnership (HSP) and the Coastal Salmon Restoration and Production Task Force. In addition, the bill strengthened GWEB's statutes.

The state established a team structure that continues today, to provide on-going direction for the Plan. The structure includes the:

- Natural Resources Cabinet, to address major policy issues that have interagency implications;
- Core Team, to discuss interagency policy issues related to implementation of the Plan;
- Implementation Team, to discuss and address barriers to implementation of the Plan;
- Monitoring Team, to design and implement a statewide monitoring strategy; and
- Outreach Team, to assist with outreach and education efforts.

A ballot measure and several pieces of legislation have passed since 1997 that further define the Oregon Plan and provide assurance that it will be funded and implemented over time, reviewed periodically, and adapted as needed to ensure the effectiveness of the actions taken under the Plan to restore at-risk species, restore watershed health and improve water quality statewide.

In 1998 Oregonians enacted Ballot Measure 66 by a two-to-one margin. This measure, amending the Oregon Constitution, dedicates 15% of the net proceeds of lottery revenue to parks and salmon and watershed restoration. The funding is split with 7.5% to parks and 7.5% to salmon and watershed restoration. The measure became effective July 1, 1999 and continues until 2014 at which time voters will be asked whether they want to continue to dedicate these funds for these purposes. This measure provides a continuous source of funding for the Oregon Plan.

In addition, in 1998, Congress began to make annual appropriations to the Pacific Coast Salmon Recovery Fund (PCSRF). For FFY 2005, \$12 million is available to Oregon to help implement the conservation efforts under the Oregon Plan.

In order to implement Measure 66 the legislature passed House Bill 3225 during the 1999 session. Measure 66 required that a single agency administer the salmon and watershed restoration funding. HB 3225 amended the existing statutory framework for what was then known as the Governor's Watershed Enhancement Board (GWEB) to create a new agency – the Oregon Watershed Enhancement Board (OWEB), and to designate OWEB as the single agency responsible for administering Measure 66 salmon and watershed funds... The Board was expanded to include 6 citizen representatives and non-voting representation from the National Marine Fisheries Service and the Environmental Protection Agency. The bill also expanded the responsibilities of OWEB to include setting statewide and regional goals and priorities for funding decisions, reporting biennially to the legislature on the expenditure of Measure 66 funds, developing guidance and protocols for watershed assessments and watershed action plans, and supporting the development and implementation of a standardized data collection, management and reporting system.

Also in 1999 Governor Kitzhaber signed Executive Order 99-01 in January that expanded the Oregon Plan statewide, with a stated objective of protecting and restoring salmonids and improving water quality. The EO replaced and broadened an earlier Memorandum of Understanding between

the state and NMFS. The EO directs specific agencies to carry out certain tasks to improve and strengthen the Oregon Plan. This EO remains in effect today under Governor Kulongoski's administration.

In 2001 three additional pieces of Oregon Plan legislation were enacted: Senate Bills 945 and 946, and House Bill 3002. SB 945 assigned OWEB the responsibility for reporting biennially to the legislature and governor on implementation and effectiveness of the Oregon Plan. In addition OWEB was charged with developing a statewide monitoring program for the Plan. The bill codified the mission statement and goals for the Plan. It also added a list of the Oregon Revised Statutes (the regulatory framework), and federal and local government efforts to the description of the Plan. Those ORS are listed in the table below.

SB 946 made OWEB responsible for coordinating data and data needs of agencies related to the Plan and disseminating those data to local, state and federal agencies and others working on the Plan.

Oregon Statutes included in OPSW under SB 945

ORS Chapter	Topic
196.105 to 196.125	Columbia Gorge Protection
196.600 to 196.905	Wetlands
197	Land Use Planning Coordination
274	Submerged & Submersible Lands
366	State Highways
390	State & Local Parks; Recreational Programs; Scenic Waterways; Recreation Trails
465,466, 468 and 468b	Hazardous Waste & Materials; Environmental Quality; Water Quality
469.300 to 469.563, 469.590 to 469.619, 469.930 and 469.992	Regulation of Energy Facilities
477	Fire Protection of Forests & Vegetation
496, 497, 498, 501, 506, 507, 508, 509, and 511	Fish & Wildlife Laws
517.702 to 517.989	Mineral Exploration
527.310 to 527.370, 527.610 to 527.770, 527.990 (1) and 527.992	Insect & Disease Control; Forest Practices
530	Acquisition & Development of State Forests
536 to 543A	Water Resources Administration, Watershed Enhancement
543A.005 to 543A.415	Hydroelectric Projects
568.210 to 568.808 and 568.900 to 568.933	Soil & Water Conservation Districts, Agricultural Water Quality Management Program

HB 3002 created a 13 member Salmon Recovery Task Force with the charge to define recovery for the purposes of restoring anadromous salmonids populations to a point that they may be removed

from ESA status. The Task Force was also directed to establish criteria to evaluate salmon recovery.

In 2003 House Bill 2138 passed, implementing the Task Force report by defining “recovery,” and the fish performance attributes that will be used to gauge success. In support of this definition the statute also defines “listed unit,” “native fish,” “naturally produced,” “population” and “self-sustaining.” In addition, the bill directs the governor to negotiate with federal officials to make sure the Oregon Plan satisfies the requirements of the ESA.

In the 2001-03 and 2003-05 biennia some staff reductions occurred in natural resource agencies as a part of significant budget reductions enacted to address a serious revenue shortfall in the state. This has resulted in the loss of some water quality staff at DEQ and some field staff at ODF.

The work being done under this assessment is one of the steps being taken to ensure that Oregon Plan programs satisfy the requirements of the federal ESA. In addition, the state has been involved in the Subbasin Planning process being used in the Columbia Basin as the basis for development of federal recovery plans.

2. *The legal authority of the party(ies) to the agreement or plan to implement the formalized conservation effort, and the commitment to proceed with the conservation effort are described.*

Oregon has in place an extensive set of laws and rules that provide the authority for the state’s conservation efforts. These include statutory guidance on the Oregon Plan in general, under the first criterion above, and the specific laws and rules that guide the conservation responsibilities of particular agencies and private entities. Oregon’s natural resources agencies, including Department of Forestry (ODF), Department of Agriculture (ODA), Department of Fish and Wildlife (ODFW), Department of Environmental Quality (DEQ), Department of State Lands (DSL), Water Resources Department (WRD) and Department of Land Conservation and Development (DLCD), have been granted the legal authority to carry out various laws governing the management of the state’s natural resources.

Agencies have been directed by both the governor and the legislature to implement the conservations efforts described in the Oregon Plan. These same agencies and other entities have made a commitment to the conservation effort that extends back to 1997 and continues into the future. The commitment includes approval of agency measures by various boards and commissions that provide policy direction to agency staff as well as incorporation of the Oregon Plan priorities in individual agency programs, strategic plans and performance measures.

Information on the specific legal authorities for these conservation efforts is provided in response to criterion six below.

One concern that NOAA Fisheries staff have identified tentatively is the possible effects of Oregon Ballot Measure 37. In November 2004 Oregon’s voters passed Ballot Measure 37, requiring compensation for land use laws, with exceptions (including laws required to comply with federal

law and pollution control laws), that decrease the fair market value of private real property. In lieu of compensation, government may in certain cases elect to modify, remove or not apply the law that triggered the compensation claim and allow the owner to use the property for a use permitted at the time the owner acquired the property. Measure 37 adds some uncertainty, particularly in areas of land use and growth management, to whether state and local government will be able to continue certain regulatory conservation efforts described in this report. At this time, however, the measure is not expected to affect significantly the state's authority to carry out the conservation efforts described in this assessment.

Through March 31, 2005, nearly 250 claims had been filed against the state. Most claims are based on laws that are enforced in some manner by the Department of Land Conservation and Development. Only 16 of these claims fall within the Oregon Coastal Coho ESU, involving approximately twenty five tax lots. Additional details about these claims can be found in Table 1 in Part 4 (F) Urban Growth Management.

The Oregon Attorney General has recently issued legal advice concerning Measure 37 that helps clarify some of the uncertainties concerning the likely effects of the measure.

3. *The legal procedural requirements (e.g. environmental review) necessary to implement the effort are described, and information is provided indicating that fulfillment of these requirements does not preclude commitment to the effort.*

Oregon does not have a state required environmental review similar to the federal National Environmental Policy Act (NEPA) process. However several agencies have legal procedural requirements that are imposed by statute as a precondition to further regulation. In general, these requirements do not affect the agencies' ability or authority to carry out existing conservation efforts.

One example of such requirements is the statutory preconditions to further regulation of forest practices by the Oregon Board of Forestry. Before the Board may adopt more stringent regulations, it must make a series of determinations concerning the need for such rules and whether there are less burdensome means of accomplishing the purpose(s) of the rules.

DEQ establishes water quality standards through rulemaking, and has extensive rules for developing and implementing TMDLs and issuing water quality permits. While DEQ is delegated authority under the Clean Water Act for its water quality programs, certain elements, such as establishment of water quality standards and TMDLs, require approval by the Environmental Protection Agency (EPA). DEQ must meet requirements of the federal Clean Water Act to change or update standards, update the 303(d) list of water quality limited streams and get EPA's approval for TMDLs. These approvals are another example of legal procedural requirements that could affect future actions under the Oregon Plan, but that do not concern existing plan actions.

DEQ also reviews all federal permits and licenses under the authority of section 401 of the CWA. This review is to ensure that the proposed action is consistent with the state's water quality standards that are intended to protect cold water fish as a beneficial use.

State statute requires the Oregon Board of Forestry, in consultation with the Environmental Quality Commission, to establish Best Management Practices and other rules applying to forest practices to ensure that to the maximum extent practicable non-point source discharges of pollutants resulting from forest operations do not impair the achievement and maintenance of water quality standards established by the EQC. DEQ and ODF conducted a sufficiency analysis for the Forest Practices Act in 2002. Conclusions include the finding that at the landscape scale the current protections are sufficient but that there is some risk current protections may not be sufficient at a site-specific scale for some small and medium streams. However, the significance and scope of this risk is uncertain. As a result additional work is being done in this area.

Rules for state forest management require formal adoption by the Oregon Board of Forestry (BOF) for all of ODF's forest management plans (FMP). Once approved, the FMP is adopted by the BOF as an administrative rule. This legal procedure (OAR 629-035-0030) actually ensures ODF commitment to its conservation effort, an FMP, and requires its implementation by the State Forester. Executive Order 99-01, issued by Governor Kitzhaber and continued by Governor Kulongoski, further commits ODF to participation in the non-regulatory Oregon Plan when managing state forest lands.

ODA's pesticide program is operated under an MOA with EPA, thus, EPA retains formal oversight of this program. EPA also retains indirect oversight of the state's Agricultural Water Quality and CAFO programs through EPA's approval of TMDLs and their implementation plans.

DSL regulates fill and removal activities in the waters of the state, including wetlands. State agencies (DEQ and ODFW) are provided opportunity to comment on these permits. Some of these activities may also require a federal permit from the Corps of Engineers under section 404 of the CWA, and/or section 10 of the Rivers and Harbors Act, in which case DEQ will do a water quality certification. DSL reviews permit requests for protection, conservation and best use of the water resources of the state and to avoid interference with or injuring public navigation, fishery and recreational uses of the waters. No significant additional future regulatory actions of DSL are contemplated for this ESU.

ODFW hatchery operations may require water rights from WRD, subjecting them to the same public interest review as other water rights requests. In addition, wastewater permits are often required for the operation of hatcheries to ensure that do not adversely affect water quality. The regulatory actions concerning fisheries management and harvest are already in place for the ESU. No significant additional regulatory actions of ODFW are contemplated for this ESU.

4. *Authorizations (e.g. permits, landowner permission) necessary to implement the conservation effort are identified, and a high level of certainty is provided that the party(ies) to the agreement or plan will implement the effort will obtain these authorizations.*

Most state agencies have already received the necessary authorizations for the work they are doing under the conservation effort. Where landowner permission or permits are desired or needed state

agencies have established protocols in place for obtaining them. Oregon's regulatory agencies generally have the legal authority to gain access to private lands for compliance and enforcement purposes. This includes the use of warrants if needed.

Some of the actions under the conservation effort require federal permits or authorizations. For instance, ODFW must get incidental take permits (ITPs) from NOAA Fisheries and US Fish and Wildlife Service (USFWS) for its research and monitoring efforts. ITPs are also required for certain fish harvest activities. These ITPs are currently in place, and it is expected they will continue to be granted in the future.

While DSL has permitting authority for work requiring the removal or fill of materials in waters of the state, obtaining DSL permits for restoration work has not been a major problem. Many of these same restoration efforts require a 404 permit from the US Army Corps of Engineers, which can also involve federal consultation under the ESA. Over the past five years, the state has developed a streamlined process for the review and authorization of these types of actions.

DEQ's water quality standards and TMDLs require EPA approval. We have developed a good working partnership with EPA that has resulted in approval of most of the state's water quality standards and all of the TMDLs submitted to date. EPA is currently reviewing the state's submittal of standards for toxic compounds, which brings the state up to date with EPA's national criteria.

The Oregon Department of Transportation (ODOT) has implemented statewide the Routine Road Maintenance program, a subset of the activities described in Limit 10(i) of the July 10, 2000 final rule prohibiting take of 14 threatened salmon and steelhead evolutionarily significant units. ODOT committed to implementing the Routine Road Maintenance program through best management practices described in its 'Routine Road Maintenance Water Quality and Habitat Guide Best Management Practices Revised 2004 (Guide)'.

Under the program, ODOT implements best management practices (such as erosion control measures, modifications to activities, timing and equipment, pollution prevention techniques, etc.) that minimize impacts to natural habitat and water quality. In addition, ODOT submits an annual report to NOAA Fisheries that summarizes the program. Other elements of the program include evaluating the effectiveness of the Guide every 5 years. Consequently, ODOT coordinated with NOAA Fisheries and ODFW to revise the Guide and in July 2004, ODOT received reauthorization of the Routine Road Maintenance program. Major additions to the Guide include storm water management, maintenance compounds and the development of tree corridor plans.

ODOT, NOAA Fisheries and ODFW rolled out the revised Guide to over 1000 ODOT Maintenance employees and the Association of Oregon Counties.

Oregon's voluntary watershed restoration efforts may, depending on the project type and site, require landowner approval, permits, consultation or other authorizations. Some of these requirements have been an impediment to getting work done. There are occasions where the time to work through the process delays the project for a year or more. There are also some landowners who decided not to participate in restoration activities because of permit conditions and processes, and the uncertainty with regard to take liability created by the listing and subsequent promulgation of the 4(d) rule.

The Oregon Watershed Enhancement Board, in cooperation with other state and federal agencies, developed a set of aquatic habitat guidelines to be followed when on the ground restoration projects are being implemented. OWEB, and other state agencies, require that these guidelines be followed as a condition of their grant funding.

5. *The type and level of voluntary participation (e.g. number of landowners allowing entry to their land, or number of participants agreeing to change timber management practices and acreage involved) necessary to implement the conservation effort is identified, and a high level of certainty is provided that the party(ies) to the agreement or plan will implement the conservation effort will obtain that level of voluntary participation (e.g. an explanation of how incentives to be provided will result in the necessary level of voluntary participation).*

Voluntary actions in the Oregon Coast coho ESU are especially significant to efforts to restore these salmonids because the species is primarily distributed on private lands rather than public lands in the ESU. There are a number of Oregon Plan partners that engage in voluntary efforts including watershed councils, soil and water conservation districts, STEP volunteers, and local governments, as well as private agricultural and forest landowners.

Watershed councils are the primary forum for the voluntary participation in watershed restoration at the local level. There are 16 watershed councils in the Coastal coho ESU as shown below in Table 1. These groups meet monthly, conduct watershed assessments, develop action plans which prioritize subbasin and watershed restoration projects, design and implement projects, and monitor their watersheds for baseline data and trends to determine the effectiveness of their actions.

The state tracks many of the voluntary efforts through the Oregon Watershed Restoration Inventory (OWRI) at OWEB. It is important to note that this database does not track all the restoration work being done in Oregon. Many landowners are doing restoration work using their own resources and, while they are encouraged to report this work to OWEB, they are not required to do so. Based on an analysis of the data the state believes there is under reporting for agricultural lands in particular. Below is a summary from 7 years of data reported to the OWRI for the Oregon Coast coho ESU. Table 2 shows the restoration treatments completed and Table 3 shows the dollars invested.

TABLE 1- WATERSHED COUNCILS

Monitoring Unit	Watershed Council
North Coast	Necanicum, Lower Nehalem, Upper Nehalem; Ecola; Tillamook; Nestucca-Neskowin
Mid Coast	Mid-coast including Salmon & Drift Creek, Yaquina, Alsea, Siletz; Siuslaw
Umpqua	Umpqua; Elk; Smith
Mid-South Coast	Tenmile Lakes; Coos; Coquille;

Since the late 1990's, ODOT has been addressing fish passage at culverts throughout the state, including the Coastal Coho ESU, either through replacing a culvert that does not provide fish passage with a culvert/bridge that provides fish passages, or retrofitting an existing culvert to improve fish passage.

ODOT has spent over six million dollars and replaced 22 culverts in the Coastal Coho ESU, opening approximately 56 miles of upstream habitat that had previously been blocked. Replacement culverts were installed throughout the ESU.

In addition, ODOT has spent over \$490,000 to retrofit 40 culverts to improve fish passage in the ESU. The typical improvement involved installing baffles or weirs. Baffles provide roughness to the culvert and provide resting spots for the fish. Weirs pool the water, increasing water depth and also provide resting areas. ODOT Research, working with OSU, OWEB and other interested parties conducted a research project to determine the effectiveness of the culvert retrofits. The research was not conclusive; however, the research demonstrated that retrofitted culverts can improve fish passage. As a result of the retrofits, over 137 miles of habitat is more accessible to migrating fish.

The culvert retrofits occurred predominately in mid coast basins.

TABLE 3- RESTORATION INVESTMENTS

Key Facts Regarding Restoration in the Costal Coho ESU 1997 – 2003	
<p>Total Investment - \$107 million</p> <ul style="list-style-type: none"> • Road work –\$52 M • Fish Passage - \$25M • Instream - \$13M • Riparian - \$7M • Other & Combined - \$10M 	<p>Typical annual restoration investment</p> <ul style="list-style-type: none"> • \$12 - \$22M
<p>Distribution of Restoration across the ESU</p> <p>North Coast - \$40M Mid Coast - \$31M Umpqua - \$27M Mid-south Coast - \$19M</p>	<p>Source of restoration funds</p> <ul style="list-style-type: none"> • Federal – 31% • State – 34% • Private – 30% • Other – 4%
<p>OWEB grants – total \$23 million</p> <ul style="list-style-type: none"> • Restoration - \$13M • The remaining \$10 M was distributed among Assessments, Council Support, Education, Monitoring, and Acquisition 	<p>Monitoring Investment – total \$16 million (State funds only)</p>

Under ODA’s agricultural water quality management program, broad performance objectives for improving water quality in agricultural and rural areas are developed by local landowners along with plans to meet these objectives. Individual farmers are encouraged to develop individual farm plans to comply with adopted plans. Technical assistance is provided to landowners by the Natural Resources Conservation Service, ODA’s field staff, and local soil and water conservation districts. Financial incentives are available to help implement the plans including the OWEB Small Grant Program and regular grant program, DEQ’s 319 Program and federal grant sources such as the Environmental Quality Incentive Program (EQIP), Wildlife Habitat Improvement Program (WHIP), Wetland Reserve Program (WRP) and Conservation Reserve Enhancement Program (CREP).

Agricultural landowners are subject to enforcement action for compliance with rules adopted in conjunction with the agricultural water quality management area plans. In addition, confined animal feeding operation (CAFO) regulations and permits control some agricultural operations. Between the available technical assistance and grant resources, and the potential for enforcement action if farms and ranches do not comply with the adopted plans and regulations, adequate incentives exist for agricultural landowners to comply with these requirements.

Included as part of ODF’s conservation efforts is a voluntary commitment by private forest landowners, represented by the Oregon Forest Industries Council, Oregon Small Woodlands

Association, Oregon Forest Resources Institute, OSU Extension Service, Associated Oregon Loggers and others. The commitment includes actions to improve roads, provide for fish passage, enhance habitat through the placement of large wood instream, and actively manage streamside forests to accelerate improved riparian function.

Table 4 is a summary of the voluntary activities related to improving riparian function for the ESU on all land ownerships. This is not a complete listing of landowner activities, but reflects those reported to the Oregon Watershed Restoration Inventory. Efforts by private landowners to make improvements on their property that favorably impact the environment are on going and often not reported because they do not involve government resources. We expect this level of activity to continue into the future.

TABLE 4 – RIPARIAN SUMMARY

Year	Number of Projects (n)	Miles of Restoration					
		Riparian Planting	Riparian Fencing	Voluntary Tree Retention	Hardwood Conversion	Other Riparian Projects	Total Miles of Riparian Restoration
1997	194	56.1	61.7	39.8	8.9	0.1	167
1998	208	37.7	20.3	58.6	5.0	2.4	124
1999	226	35.7	22.8	47.6	6.3	0.0	112
2000	231	33.5	32.8	74.3	0.5	0.4	142
2001	203	121	45.7	47.7	0.2	0.0	215
2002	128	33.7	31.0	31.5	0.0	0.0	96.2
2003	182	7.6	7.4	67.4	0.4	0.0	82.8
All Years	1372	326	222	367	21.2	3.0	938

WRD and ODFW worked collaboratively to identify streams where there was a need to improve instream flows for salmonid restoration and a high likelihood that instream flows could be increased. This information is being used by non-governmental organizations like the Oregon Water Trust and local watershed councils to identify specific opportunities for instream flow restoration on a voluntary basis.

Voluntary streamflow restoration (through acquisitions, instream leases, instream transfers, and allocations of conserved water) has restored over 25 cfs of flow in the coho ESU. These flow restoration projects have been focused in the Mid-South Coast and Umpqua monitoring units where consumptive use of water is highest.

ODFW's Salmon and Trout Enhancement Program (STEP) engages volunteers in the ESU in habitat restoration efforts, hatchery fish management and educational activities. In addition ODFW is constructing a new hatchery research facility on Fall Creek (Alsea watershed) to research ways to better manage hatchery fish to assist with conservation and recovery efforts.

6. *Regulatory mechanisms (e.g. laws, regulations, ordinances) necessary to implement the conservation effort are in place.*

Oregon Department of Fish and Wildlife (ODFW) has regulatory authority to manage hatchery and fish harvest programs affecting waters of the state. ODFW works through the Pacific Fishery Management Council to develop and implement harvest programs for ocean fisheries beyond the three-mile limit.

ODFW adopted the Native Fish Conservation Policy (NFCP) in 2002 and Fish Hatchery Management Policy (FHMP) in 2003 by rule. The purpose of the NFCP is to ensure conservation and recovery of Oregon's native fish species. The purpose of the FHMP, along with the Fish Health Management Policy, is to describe the hatchery tool and its uses, with the intent of maintaining genetic resources and helping ensure conservation of both naturally produced and hatchery produced native fish. In addition, ODFW has submitted Hatchery Genetic Management Plans (HGMP) to NOAA Fisheries for all coho hatchery operations in the ESU.

Hatchery operations in the Upper Umpqua and Salmon River have been identified in this assessment as continuing threats to the viability of Oregon Coast coho populations in these two areas. ODFW will address these hatchery programs as the NFCP and FHMP are implemented for this ESU on a timeline consistent with the federal recovery planning process.

Oregon's state, private and some federal forests are regulated under an extensive set of laws and rules addressing forest practices and management of forestlands to protect forest resources including timber, water, soil and fish and wildlife habitat.

A key impetus behind passage of the first Forest Practices Act (FPA) in 1971 was protection of water quality under the Clean Water Act. The FPA, and ODF's rules to implement the Act, have been strengthened several times since they were first adopted, as better science has become available about the impact of forest activities on other forest resources. ODF has been implementing and reviewing proposed rule changes for the past 5 years (the final set of proposed rules are tentatively scheduled for public comment in 2005) to provide additional protection for water quality and riparian areas, particularly on medium and small streams.

The FPA sets standards for any commercial activity involving the establishment, management or harvesting of trees on Oregon's forestlands. It regulates these forest operations on all non-federal lands (private, state-owned, and county- or city-owned) and a limited amount of federal lands (e.g.; Bureau of Reclamation). Operations on lands managed by the USDA Forest Service and USDI Bureau of Land Management are not directly regulated under the FPA. These two federal agencies are "designated management agencies" under agreement with the Environmental Quality Commission and their management plans and standards must meet or exceed the Oregon Forest Practices Act requirements.

The FPA rules cover a wide range of issues pertaining to forest operations and resource protection. In general, the rules are designed to minimize impacts of forest activities on other forest resources, including water quality, and fish and wildlife habitat. To a limited degree the rules address other

issues including scenic considerations and public safety. Among other things, the rules focus on minimizing sediment delivery to channels, providing 50-year flow and juvenile fish passage through culverts, maintaining function of riparian areas, and protecting water quality, air quality, wildlife and fish habitat. It is important to recognize that the rules are designed to minimize impacts rather than to ensure that operations have no impact. This is a practical approach balancing the need to maintain an economically viable forest industry to avoid the conversion of forest lands to residential uses, with the need to protect other forest resources and functions.

The FPA Water Protection Rules identify and distinguishes among streams, lakes, and wetlands in seven geographic regions across the state. The rules further distinguish each stream by size and type. Stream size is distinguished as small, medium, or large, based on average annual flow and beneficial use. This approach endeavors to recognize that forests are dynamic, with regional differences resulting from inherent characteristics and disturbance regimes. Stream type is distinguished as fish use, domestic use, or neither.

State forest lands are managed to achieve the greatest permanent value (GPV), which means healthy, productive, and sustainable forest ecosystems that over time and across the landscape provide a full range of social, economic, and environmental benefits to the people of Oregon (OAR 629-035-0020).

Federal forests in the Coastal coho ESU are managed under the Northwest Forest Plan and Aquatic Conservation Strategy (ACS). The ACS includes prescriptive protections for aquatic species, development of watershed analyses, and watershed restoration and protection actions based on the results of the analyses.

Oregon's agricultural lands are regulated through a series of laws and rules that address agricultural water quality management plans, confined animal feeding operations (CAFOs), pesticides, weed control and invasive species, and soil and water conservation districts. ODA has the authority to adopt water quality management plans for agricultural lands where those lands are contributing to known water quality problems. Plans have been completed throughout the state and are now being implemented. In addition, ODA has authority to regulate CAFOs. In 2001 a legislative change was made to bring the program into compliance with EPA's CAFO regulations. Permitted CAFOs have been inspected annually since 1999.

ODA also regulates all aspects of pesticide use, not just agricultural use. The program is implemented under an agreement with EPA. ODA has the authority to regulate pesticide user licensing, registrations, and use reporting. In addition ODA has the authority to carry out a pesticide use compliance monitoring program. While the state has regulations and rules regarding reporting of pesticide use, no funding was provided during the 2003-05 biennium. As a result no reporting is occurring. The 2005-07 Governor's Recommended Budget includes \$1.4 million to fully fund this program. In addition to the ODA regulation of pesticides, the Forest Practices Act applies and regulates pesticide use on forestlands. This means that on forestlands, both the "label requirements" adopted by ODA and specific best management practices adopted under the Forest Practices Act are applied.

ODA works with the State Weed Board and Oregon Invasive Species Council to prevent the introduction and spread of weeds and invasive species.

ODA also works closely with Oregon's 45 soil and water conservation districts. Districts are established statutorily as units of local government. Soil and water conservation districts cooperate with watershed councils throughout the ESU to implement projects that have conservation benefits.

WRD regulates the use of the state's water for beneficial use, including instream uses through its watermasters. Water is regulated under a water right system with priority dates. Water rights may be issued for instream uses including recreation, water quality and fish and wildlife needs. In the Oregon Coastal coho ESU, 800 instream water rights exist in over 3,700 miles of stream. Of the 54 instream water rights measured at continuous gauging stations in the ESU from 1991-2002, 39 were met more than 80% of the time.

The statute allowing for instream water rights was not passed until 1987. These rights are junior rights to rights already established, and were typically issued for up to the 50% exceedance flow of the stream (the stream flow that is met 50 percent of the time on average). For these reasons, instream water rights may not be continuously met year round on streams. However, water rights may also be transferred to instream uses, keeping the same priority date as the original water right. In addition, many of the minimum streamflows that existed under earlier statutes were converted to instream water rights with their original (earlier) priority dates.

DEQ has federally delegated authority to regulate water quality in Oregon through the Clean Water Act and broader authority through state statutes. This includes establishment of water quality standards, monitoring of water quality conditions, development of total maximum daily loads and implementation plans for impaired waterbodies, and issuance of NPDES permits for point-source discharges.

DSL has regulatory authority over fill and removal activities in the waters of the state and conservation of the state's wetlands. As part of these regulations DSL has designated Essential Indigenous Salmonid Habitat areas, where fill or removal of any amount of material requires a permit. DSL also administers a removal-fill permit program on State Scenic Waterways. Fill or removal of any amount of material in State Scenic Waterways requires a permit. Outside of these areas DSL regulates fill and removal activities involving 50 cubic yards or more of material. One area that remains unregulated is the removal of large wood from streams since wood is not part of the definition of "material" under the removal statutes. Discussions continue about how best to address this issue.

Mining at and above the 2 year high watermark on all upland areas other than tribal land is permitted by DOGAMI. In-stream and up to the 2 year high-water mark is permitted by DSL. DOGAMI statutory authority resides in ORS 517.750 – 517.992 and OAR 632 DIVISION 30,33,35,37 AND 38.

Permits include a mine plan, reclamation plan, a financial security to insure reclamation is completed and any conditions the agency deems necessary to insure that there will be no significant adverse impacts during mining and that reclamation can be implemented as proposed.

Clearly one of the most sensitive issues to be dealt with is mining in the floodplain. As a result of the 96-97 floods DOGAMI developed guidelines for the protection and enhancement of mine areas on the floodplain.

In addition, in 1998 DOGAMI entered into a Memorandum of Agreement (MOA) with DEQ to administer the NPDES 1200A general storm-water permits and the WPCF 1000 permits to increase regulatory effectiveness at floodplain sites. The MOA was an inter-agency response to the Oregon Plan.

DOGAMI believes that potential turbidity is of the greatest concern at these sites. Protection of riparian function goes “hand in hand” in controlling sediment from mine sites. To that end any permitting on the floodplain is cognizant of the need to keep any turbidity within Clean Water Act standards. All permits issued by DOGAMI are circulated to pertinent state natural resource agencies and are conditioned to incorporate comments of the agencies. One note here: the eligibility of a site to be mined is authorized by the local land use authority and public comment is addressed at that time by the land use authority.

The foundation of the program is on site inspections to insure the mine plans and reclamation plans are sequenced properly and are in compliance. The program completes 1,500 on-site inspections per biennium with priority given to floodplain sites. In addition ~300 sites are flown annually which provides aerial photogrammetry for boundary control of these sites and a GIS layer.

In terms of rock quality, competent rock (based on ODOT specifications) is in short supply in the ESU. There are currently 138 DOGAMI (17% of total permits) permitted sites in the ESU boundary. Of those 17 are considered floodplain sites. In addition 67 sites have storm-water permits. Those sites produce ~ 4.5 million tons of rock or about 10% of the statewide production. Total acres disturbed by mining in the ESU are currently 1,800. The largest production area is by far the Umpqua basin with the largest production demands in the Roseburg area.

Floodplain mining clearly needs to be regulated to prevent off-site impacts. The agency responding to the flood events of 96-97 and listing of some salmonids soon after, has significantly changed reclamation goals. There are clearly opportunities to broaden floodplain functioning particularly within the recent (75 year) meanders of streams and rivers and that is now a major policy incorporated in floodplain permits.

DLCD is statutorily charged with implementing the Statewide Comprehensive Planning Program which was first adopted in 1973. The Land Conservation and Development Commission adopted by rule a set of Planning Goals (19 in total), having the full force and effect of law, that govern land use planning across the state. Local jurisdictions are required to adopt a comprehensive land use plan that is consistent with the Goals. DLCD reviews the plans and amendments to the plans for this consistency. The overarching purpose of the Program is to protect farm and forest land and other natural resource values, while requiring urban density development to occur within urban growth boundaries. The Governor’s 2005-07 Recommended Budget includes resources to conduct a 30 year review of the land use program.

Regulatory agencies have a proven track record of using their authorities to enforce Oregon's environmental laws when necessary. Both ODA and DSL identified some issues with timely response to complaints in the past. These agencies now have procedures in place to respond timely to complaints of potential violations. Specific agency information on enforcement and compliance data can be found in Part 4 Agency Reports in response the PECE Part A Criteria 6.

7. *A high level of certainty is provided that the party(ies) to the agreement or plan that will implement the conservation effort will obtain the necessary funding.*

Funding for the Oregon Plan has become more certain since the passage of the first budget in 1997. Several events have combined to provide a stable and steady source of funds to pay for state agency efforts and the work of Oregon's watershed councils and soil and water conservation districts.

In 1997, in addition to passing a \$30 million budget for the Oregon Plan, the legislature passed Senate Bill 372 that created a Salmon License Plate with a special surcharge dedicated to parks and salmon restoration efforts. There is a \$30 biennial surcharge for these special plates, with 50% net of expenses going to OWEB for salmon restoration projects. The Board has dedicated these revenues, currently about \$30,000 per month, to road related projects such as culvert work and road decommissioning that help improve fish habitat and water quality.

As mentioned earlier, Ballot Measure 66 passed in November 1998 with 7.5 percent of the net proceeds of the state lottery dedicated to fish and wildlife protection, restoration, and enforcement efforts. This has provided a stable source of funding even in a period of declining budget revenues through 2014. For the 2003-05 biennium \$54.7 million is available to fund Oregon Plan efforts with these revenues. For the 2005-07 biennium the Governor's Recommended Budget (GRB) includes \$61 million in lottery funds for this purpose.

Beginning in federal fiscal year 1999 the Pacific Coastal Salmon Restoration Fund was created to provide annual appropriations from Congress to help with ESA restoration efforts in the Pacific Northwest states with ESA listings. For the 2003-05 biennium \$33.8 million has been available to the State of Oregon for its salmonids restoration efforts. The GRB for 2005-07 includes \$16 million in federal funds. It is anticipated that FFY 06 funds will also become available to the state during the 2005-07 biennium.

Funding for the Oregon Plan has grown significantly since 1997 as a result of these actions. In the 1997-99 biennium \$30 million was budgeted for the Plan, with \$10 million for additional state agency staffing (63 FTE) and monitoring to carry out state measures and \$20 million to fund local efforts including staffing for watershed councils, assessment and action plan development, outreach and education efforts and restoration projects. In the current biennium \$88.5 million has been appropriated statewide from all sources to directly fund the Plan. Of this amount over \$26 million is being spent in this ESU. Table 4 shows the allocation of the funds by fund source under the Legislatively Approved Budget (LAB) for the current biennium. An additional \$8.3 million in federal funds expenditure limitation above the LAB was approved by the Emergency Board in April 2004.

TABLE 4- 2003-05 BIENNIAL BUDGET

LAB 2003-05 M-66 Lottery and PCSRF Federal Allocations

	General Fund	M-66 LF Operations	M-66 LF Capital	PCSRF	Coastal Coho ESU Expenditures
Available Resources		18,244,226	36,498,645	25,852,000	
May '03 M-66 forecast and 01-03 unallocated					
Congressional Earmarks Columbia Hatcheries				1,100,000	
ODFW Mass Marking Trailers				2,094,323	
ODFW					PCSRF Coho 5,500,000
Coastal Monitoring				878,000	
Oregon Plan Monitoring				3,893,636	
Fall Creek Hatchery Research Center ¹			5,125,000		5,125,000
Fish Screens Program			4,000,000		500,000
Fish Screens Program Support	(206,424)			206,424	
Spawning Surveys	(22,067)	22,067			22,067
Water Policy / Fish Flows	(264,082)			264,082	
Outreach and Education	(224,000)			224,000	
Oregon Plan Coordination					
Oregon Plan Implementation					
Habitat Biologists	(424,674)			424,674	
Wildlife Diversity					
Land Owner Assistance					
Habitat Protection	(30,000)	30,000			30,000
Seal Predation	(224,133)	224,133			224,133
Oregon Plan Implementation ¹					
Aquatic Surveys ²	(362,724)			362,724	
Fish Passage ²	(375,455)			375,455	
Totals	(2,133,559)	276,200	8,000,000	6,628,995	11,401,200
OSP/Fish&Wildlife					
Oregon Plan Base		4,064,126	846,821		1,399,130.97
Commercial Fish Enforcement		862,624			718,853.33
Totals	0	4,926,750	846,821	0	2,117,984.30
DEQ					
TMDL Development	(3,375,000)	3,375,000			230,040
Willamette TMDL Acceleration	(387,071)			387,071	0
Volunteer Monitoring Coordinator	(210,000)			210,000	84,000
Oregon Plan Monitoring	(782,182)			782,182	582,182
Totals	(4,754,253)	3,375,000	0	1,379,253	896,222

Water Resources					
Oregon Plan Data	(800,000)			800,000	136,574
Instream water rights, tech assist	(1,200,000)			1,200,000	205,461
Totals	(2,000,000)	0	0	2,000,000	342,035
OWEB					
LCREP					
Capital Project Grant Fund			24,221,497		4,750,000
CHIP ³		650,000			650,000
ESA Linkage				469,519	469,519
PCSRF Admin Allowance				660,000	198,000
IMST				600,000	150,000
LCREP		200,000			
Local Watershed Councils		1,000,000		3,100,000	880,000
Council Supplemental Funding					
OWEB Base Operations		4,062,013			350,000
Totals	0	5,262,013	24,221,497	4,829,519	7,447,519
Forestry					
Cumulative Effects	(96,346)			96,346	67,442
Data Collection and Monitoring	(973,973)			973,973	681,781
Oregon Plan Coordination	(283,921)			283,921	198,745
Education and Outreach	(74,967)			74,967	52,477
Forest Practices	(2,592,211)			2,592,211	combined w/tech assist
Technical Assistance/Forest Mngt.	(698,492)			698,492	1,088,514
Totals	(4,719,910)	0	0	4,719,910	2,088,959
Agriculture					
Agricultural Water Quality	(3,375,000)	3,375,000			528,735
Riparian / Wildlife Habitat Weed Control	(370,357)		2,082,809		147,710
Riparian / Wildlife Habitat Pest Control	(1,347,518)		1,347,518		
Soil & Water Conservation Districts	(1,700,000)	1,000,000		3,100,000	1,188,688
SWCD M-66 Support		0			
Pesticide Use Reporting					
Totals	(6,792,875)	4,375,000	3,430,327	3,100,000	1,865,133
Total Allocated	(20,400,597)	18,214,963	36,498,645	25,852,000	26,159,052.30
Remaining Unallocated		29,263	0	0	0
Available New Revenue					
Target	107,012				
	(20,293,585)				

¹Includes \$1,125,000 from the Restoration and Protection Research Fund.

²Other Fund expenditures are reduced and this OF revenue is used to backfill GF in other ODFW programs.

³Funded with interest on Operations in Research Fund

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The 2005-07 Governor's Recommended Funding includes \$77 million in Oregon Plan expenditures, including new general fund resources to fund TMDL implementation work and the Pesticide Use Reporting System.

8. *An implementation schedule (including incremental completion dates) for the conservation effort is provided.*

Many of the original implementation schedules for the Oregon Plan have been completed. For instance, all of the agricultural water quality management plans and rules have been completed for this ESU. Each set of rules adopted have compliance deadlines for conditions to be met, which are found in the Department of Agriculture report. ODA also reviews implementation of these plans biennially.

Watershed assessments and action plans have been completed for most of the ESU.

Many agency efforts are ongoing efforts and do not have specific implementation schedules at this point. This includes ODFW's hatchery and fish harvest management efforts, which have been implemented and will continue to be monitored and adapted as needed. DSL's wetlands protection and fill and removal programs, and DLCDC's land use program are on-going responsibilities. WRD has performance measures and annual performance targets for its efforts to monitor instream water rights and its efforts to restore streamflows in watersheds with the greatest need for flow restoration. WRD does not currently track these two performance measures at the Coastal coho ESU scale. While those data are not currently available, performance for both of these measures could be tracked at the coho ESU scale in the future. The targets for both measures could apply on this smaller geographic scale as well.

DEQ is following its schedule to complete Total Maximum Daily Loads in the ESU as indicated in their report. To date, four TMDLs have been developed within the Coastal Coho ESU. These are the Nestucca, Tillamook, Nehalem, and North Coast Basins. Other TMDLs in the ESU are scheduled to be completed as follows: Umpqua, 2005; Sixes, Coos, Coquille, 2006; and Alsea, Siletz-Yaquina, Siuslaw 2008.

ODF is working on changes to its rules dealing with riparian protection on private lands in response to the recommendations of the Forest Practices Advisory Committee. At this time, rules have been drafted but the rule review process has not yet started. This is expected to occur in 2005. In addition, private forest landowners will continue to voluntarily address legacy road issues through 2012.

On state forest lands, a 10 year implementation plan was adopted in 2003 for the Northwest and Southwest Oregon Forest Management Plans. The plans may be reviewed prior to 2013 if new information becomes available as a result of planned watershed assessments.

The federal Northwest Forest Plan and Aquatic Conservation Strategy provide a predictable framework for conservation on federal forest lands. The Forest Service has developed a Coastal Watershed Restoration Partnership to address aquatic restoration needs in coastal watersheds.

9. *The conservation agreement or plan that includes the conservation effort is approved by all the parties to the agreement or plan.*

Through a series of legislative actions (described above) from 1997 to 2003, the Oregon Plan has been funded, adopted and codified by the Oregon Legislature.

Executive Order 99-01 was issued by Governor Kitzhaber and continued by Governor Kulongoski. This Order expands the Plan statewide and directs agencies to complete certain tasks.

As an interagency plan, all of the necessary agencies were involved in the development of the overall plan and their specific contributions to the conservation effort. The various boards and commissions that oversee these agencies approved their agency's commitments (measures) through formal action.

Summary

The State of Oregon has in place the regulatory and non-regulatory programs and funding necessary to implement its conservation efforts under the Oregon Plan for Salmon and Watersheds in the Oregon Coast coho ESU. The Oregon legislature has enacted several pieces of legislation that codify the Oregon Plan. Funding for the Oregon Plan increased significantly between the 97-99 and 03-05 biennia and it is expected that the Oregon Plan budget will grow again in the 05-07 biennium.

The state agencies that participate in the Oregon Plan have the legal and regulatory authority, resources, authorizations, staffing, and commitment to carry out their conservation efforts. The agencies have been directed by the legislature, through legislative action, and by the governor, through executive order, to carry out their conservation commitments. The various boards and commissions that provide policy direction to the agencies have also approved the conservation efforts for their respective agencies.

Incentives, in the form of financial support, technical assistance and potential enforcement actions under regulatory backstops, ensure that the actions contemplated under the Oregon Plan on private lands will occur. In short, most of the conservation efforts described in the Oregon Plan for this ESU have been implemented or are close to being completed. To the extent that there is any uncertainty concerning these efforts, that uncertainty lies with the effects that these efforts will have over the long-term.

As documented in this assessment, it is highly unlikely that there would be a significant deterioration in the habitat conditions that the Oregon Coast coho depend on in the foreseeable future. In part, this is due to the extensive monitoring the state has put in place. With careful monitoring, and a set of conservation efforts that appear to have at least stopped if not reversed long-term negative trends in key habitat functions across the ESU, it appears that there is no future

threat to habitat that could not be controlled through appropriate changes in state management, or (if necessary) through federal action to reevaluate the ESA status of the ESU.

Oregon is committed to moving forward with development of a conservation plan for Coastal coho regardless of NOAA's listing decision. This plan will be developed in consultation with the Coastal Coho Stakeholder Team and NOAA Fisheries. Oregon's Native Fish Conservation Policy requires development of such a plan. Should Coastal coho be listed the plan will be drafted to serve as both a federal recovery plan as well as a state conservation plan.