

# ODFW Fish Passage Program



LEGISLATIVE REPORT July 1, 2022

## Background

It is a policy of the state to provide upstream and downstream passage of native migratory fish species in all waters where these fish were historically or presently located. The Oregon Department of Fish and Wildlife (ODFW) Fish Passage Program<sup>1</sup> administers the state's fish passage policy as required in ORS 509.585 and corresponding administrative rules in 635-412-0005 to 0040. This law, adopted in 2001 requires fish passage be addressed at all artificial obstructions (AO's) at the time of specific events including construction, replacement, abandonment, or a fundamental change in permit status at an AO. ODFW is required to review and approve all fish passage plans prior to these events.

## Fish Passage Program Accomplishments and Initiatives

- ODFW continues to seek fish passage solutions and develop collaborative funding partnerships at the state's high priority barriers identified on the 2019 Statewide Priority Barrier List. Thanks to the support from a broad group of stakeholders, the ODFW was appropriated \$8 million in Drought Funds for fish passage in the 2022 legislative session. These funds must be encumbered in the current biennium, and ODFW staff have worked extensively with local watershed partners, non-profits, state agencies, tribes and others to identify and fund high impact projects. ODFW has currently allocated 6.4 million towards 51 different fish passage restoration projects. Additional project applications are under development and expected to be submitted soon. These funds will make investments to both fish passage project design and construction. Once fully implemented, these projects are estimated to improve access to nearly 300 miles of stream habitat and 200 acres of estuarine habitat for native migratory fish species with benefits to a variety of fish species including coho, steelhead, Pacific lamprey, Chinook, Redband trout, Cutthroat trout, sucker and Tui Chub.
- Tide gates continue to be a significant fish passage issue with over 1,200 tide gates on the Oregon Coast's estuaries and tidal waterways. Many will need repair or replacement in the near future. Tide gates protect critical infrastructure from flooding and saline intrusion but also impair fish passage. Estuarine habitat is critically important for Pacific salmonids and coastal marine fishes. ODFW is a partner in ongoing statewide efforts to identify, inventory, and prioritize tide gates. New funding administered through Business Oregon and strategic state and federal regulatory permitting strategies have been developed and will be ready for implementation over the next few years. Additional information on tide gates and the Oregon Tide Gate Partnership can be found at [Oregon Tide Gate Partnership](#).



*Balm Grove Dam on Gales Creek near Banks. Dam will be permanently removed summer 2022 (statewide priority barrier).*

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For more information, visit the ODFW fish passage website at <https://www.dfw.state.or.us/fish/passage/>.



- Fish passage administrative rules were adopted in 2006 by the Oregon Fish and Wildlife Commission (OFWC). These rules continue to play a pivotal role in ODFW’s successful implementation of the state’s fish passage policy. These rules have not been revised since original adoption. In 2021-22, ODFW, in collaboration with a sub-committee comprised of members from the Oregon Fish Passage Task Force and stakeholder groups, initiated an effort to review and propose revisions to the rules. The intent of the rule revision is to clearly define and incorporate the latest research on fish biology and fish passage engineering design criteria standards and to better align rules with the ODFW Climate and Ocean Change Policy. ODFW plans to present rule revisions to the OFWC for consideration in the fall of 2022.
- In May 2021, the Governor signed House Bill 2298, directing ODFW to adopt rules and administer a program for authorizing voluntary, environmental restoration weirs (ERW’s) in qualifying streams. In March 2022, OFWC adopted environmental restoration weir administrative rules and the Department has developed tools and procedures for landowners to implement ERW’s.
- ODFW continues to collaborate with fish passage barrier owners to address fish passage through the ODFW cost share program (ODFW 60%). A tax credit is also available to help offset landowner costs.
- Since 2015 ODFW has received \$4.3 million to a fish passage compensation fund through a culvert repair programmatic agreement with ODOT. Through 2021, \$2.9 million of these funds have been implemented and resulted in the completion of 21 high-priority projects and have provided access to approximately 600 miles and 3000 acres of native migratory fish habitat. The OFWC recently extended this agreement through 2031.
- For the first 6-months of 2022 ODFW issued 78 fish passage approvals, and 1 fish passage waiver.
- ODFW has submitted a Policy Option Package (POP) as part of the 2023-25 Agency Request Budget to fund a position that was lost in 2021 due to lack of funds. From 2010-2021 this position existed to assist with the administration and implementation of the State’s fish passage program and authorities associated with ORS 509.580 – 509.910. ODFW has attempted to manage this program with one less staff person; however, the position associated with this package is essential for the agency to be able to continue to meet the responsibilities associated with the administration of the State’s fish passage policy.

### What is a Fish Passage Barrier?

- “Artificial Obstruction” (AO) or passage barrier means any dam, diversion, culvert, tide gate, or other human-made device placed in waters of the state that precludes the migration of native migratory fish.
- Native migratory fish include 32 different species that migrate for their life cycle needs (trout, salmon, sturgeon, suckers, lamprey, mountain whitefish, surf smelt and eulachon).



*Nute Slough Tide Gate in Yaquina Bay near Toledo.*

### How Many Fish Passage Barriers Exist in Oregon?

- Approximately 42,780 potential AO’s exist in Oregon’s waters.
- ODFW manages a priority list, updated every 5 years, to focus passage efforts in areas of greatest potential benefit.
- Presently, 591 Statewide High-Priority AO’s impede access to nearly 10,000 miles of historic native migratory fish habitat.

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## Fish Passage Task Force

ORS 509.590 directs ODFW to establish a Fish Passage Task Force to advise the director and the State Department of Fish and Wildlife on matters related to fish passage in Oregon, including but not limited to funding, cost sharing and prioritization of efforts. Members serve up to two four-year terms and represent the public at large, owners-operators of AOs, and fishing and conservation interests. The Task Force reviews and makes recommendations on all fish passage waiver and exemption requests, rule revisions and presently plays a pivotal role in many program initiatives.

Task Force Members include:

MEMBER	LOCATION	REPRESENTING	APPOINTED
Kelly Moore	Corvallis	Fishing and Conservation	October 2019
Denise Hoffert	Albany	Fishing and Conservation	October 2018
Terry Turner, <i>Vice chair</i>	Gladstone	Fishing and Conservation	September 2017
Steve Albertelli	Ashland	Owners-Operators of AO's	October 2019
April Snell	Salem	Owners-Operators of AO's	April 2021
Fred Messerle	Coos Bay	Owners-Operators of AO's	June 2021
Zak Toledo	Salem	Public-At-Large	September 2017
William Cunningham	Bend	Public-At-Large	November 2015
Ken Bierly, <i>Chair</i>	Salem	Public-At-Large	November 2015