APPLICATION PACKAGE
FOR PROTECTING OREGON'S WATERS

Introduction

The Oregon Division of State Lands (DSL), the Oregon Department of Environmental Quality (DEQ), and the U.S. Army Corps of Engineers (Corps) have specific and different regulatory roles designed to protect the waters within and on Oregon's boundaries. Protecting Oregon's waters is a cooperative effort between the applicant and regulatory agencies. This application package has been designed to assist applicants to initiate the permit evaluation process for activities that include construction, excavation, or filling in a water of Oregon. Instructions and application forms are contained within the package. This application package also lists the activities that are typically proposed by an applicant and regulated by DSL, DEQ, and the Corps; the applicant's role in protecting Oregon's waters; and a description of the permit evaluation process. The state and national goal is to protect the biological, chemical, and physical integrity of Oregon's waters.

Regulated Activities

Construction, excavation, or filling in Oregon's waters, which may include streams, rivers, lakes, wetlands, or the Pacific Ocean, may require authorization (a Permit) from one or both agencies *before* the project is started. Because of their value, wetlands are given special regulatory emphasis. Some common activities in Oregon's waters that may require a permit include:

a. excavation or dredging
b. channel changes, realignments, or relocations
c. construction of a dock, pier, wharf, seawall, boat ramp, beach, intake or outfall structure
d. placement of fill, riprap, or similar material
e. constructing a dam across any waterway
f. placing fill to construct levees, roadways, and bridges
g. bank or shore stabilization projects including jetties and revetments

The Applicant's Role

Oregon's water resources were once seemingly abundant and limitless. As development intensified and technology progressed, it became apparent that individual and cumulative effects were causing negative impacts and that there was a limit to the state's water resources. State and Federal regulatory programs were established to protect the public's interest in Oregon's valuable water resources. The applicant's role is to obtain the necessary permits to ensure that the water resources are wisely used and adequately protected for future generations.

Regulatory Agencies' Roles

In Oregon, DSL and the Corps administer permit programs. DEQ will, for some permits, require that applicants obtain water quality certification before a permit can be issued by DSL and the Corps. Their roles, when considered together, include protecting navigable waters (and the ocean); ensuring wise and beneficial water use; maintaining and enhancing water quality; protecting fish and wildlife habitat and recreation resources; and in general, protecting the public interest. Their regulatory authorities are described below:

DSL administers the Removal-Fill Permit Program, O.R.S. 196.800–196.990. A major focus of this law is the protection, conservation, and best use of the water resources in the state of Oregon. This statute regulates the removal of 50 cubic yards or more of material from one location in any calendar year or the filling of a waterway with 50 cubic yards or more of material at any one location at any time. This law applies to "waters of the state," which includes the Pacific Ocean, bays, rivers, streams, and salt and freshwater wetlands.

The Corps of Engineers administers its regulatory program under three Federal laws. Section 10 of the Rivers and Harbors Act regulates all activities that may affect a navigable water. Section 404 of the Clean Water Act regulates the discharge of dredged or fill material in Oregon's waters. Section 103 of the Marine Protection, Research and Sanctuaries Act regulates the transportation of dredged material for the purpose of dumping into the ocean. For activities regulated by Section 404, Water Quality Certification (Section 401 of the Clean Water Act) must be granted by DEQ before a permit may be issued. For activities occurring within the Oregon coastal zone, Coastal Zone Management certification issued by the Oregon Department of Land Conservation and Development (DLCD) is required before an application my be processed.

Note: This is a joint permit application but it is not a joint authorization, i.e., you must obtain a separate permit from both the Corps and DSL.

Preliminary Coordination

If you are unsure whether a particular action or project is regulated and requires a permit, or if you want to discuss specific concerns with any agency, please call or write:

District Engineer
ATTN: CENPP-OP-G
PO Box 2946
Portland, Oregon 97208-2946
503-808-4373
Fax 503-808-4375

Oregon Division of State Lands
Western Region
775 Summer Street NE
Salem, Oregon 97301-1279
503-378-3805
Fax 503-378-4844

Oregon Division of State Lands
Eastern Region
20310 Empire Avenue Suite B1
Bend, Oregon 97701-5723
541-388-6112
Fax 541-388-6480

Water quality certification and coastal zone management compliance is reviewed by:

Oregon Dept. of Environmental Quality
Water Quality Division
811 SW Sixth Avenue
Portland, Oregon 97304-1334
503-229-5546 /5358
Fax 503-229-6124

Oregon Dept. of Land Conservation
& Development
1175 Court Street NE
Salem, Oregon 97310-0590
503-373-0050
Fax 503-362-6705

You are encouraged to design a project and explore alternatives that will avoid or minimize adverse affects. The Corps and DSL will provide general guidance about evaluating practicable alternatives.

The Permit Review Process

The first step toward obtaining a valid permit is to apply. The joint application form that is enclosed with this package is designed to request necessary information so that a proposed activity may be adequately reviewed by those who may have an interest in or are affected by the activity. Alternately, you may print our application form from the Corp's web site: http://www.nwp.usace.army.mil, then select Permits. It is important that your application is complete; permit evaluation will not proceed with incomplete information. Some proposed activities are considered minor by the Corps and may only require a brief review. A permit from DSL may be unnecessary if excavation or filling involves less than 50 cubic yards; note that this is a state, not Federal, rule. However, many activities will require a full public interest review. If your proposal requires a full public interest review, it will be described in a joint public notice and sent to interested parties, particularly neighbors whose interests may be affected, and state and Federal agencies. A public comment period is usually 30 days. The purpose of the public notice is to assist the District Engineer (Corps), DEQ, and DSL to determine what public interest factors need to be considered. A permit

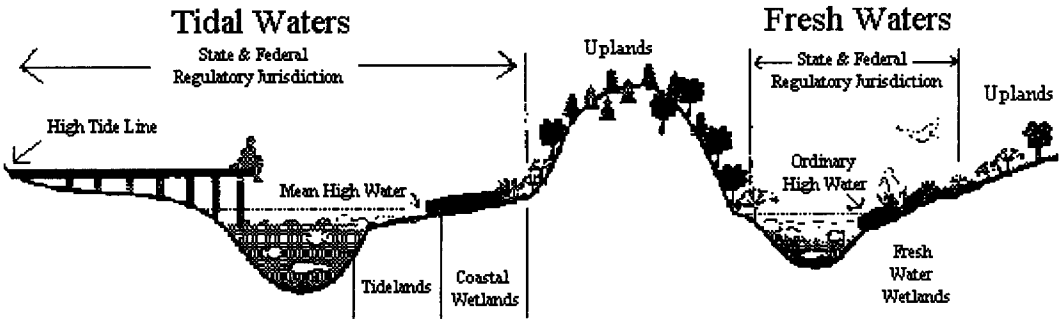
decision will be based on the need and purpose for the project in light of the public's overall welfare. In exceptional instances, a public hearing may be held. **Allow at least 60 - 90 days for the Corps, DEQ, and DSL to review your application.** Fax transmissions are unacceptable for our files. Faxes may be used to provide timely project information; however, original materials are required for file and permanent record keeping.

Reporting Unauthorized Construction

There are instances where others may start or complete a project without state or Federal authorization. DSL, the Environmental Protection Agency (EPA), the Corps have regulatory responsibility and authority to deal with unauthorized activities. If you are aware of an activity that may have started or is completed without a permit, you are encouraged to contact either agency to request an investigation. Specific information describing the activity, dates, names, and locations are needed; photos are helpful. Protecting Oregon's waters is a cooperative effort. Violators (those engaging in unauthorized activities) are subject to legal penalties, including fines.

Jurisdictional Information

The figure below depicts the general kinds of areas for which the state and Federal regulatory agencies exert jurisdiction.



Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar [geomorphic or landscape] areas. When determining whether an area is a wetland, three parameters are assessed: hydrology (is the area saturated or inundated with water at some time during the growing season); hydric soils (are the soils those that are commonly found in wetlands); and vegetation (is there a predominance of vegetation that commonly grows in wet areas). If these three parameters are present, the area is probably a wetland—and regulated. If one of these parameters is missing and the area is disturbed, special consideration is needed to determine if the area is a wetland.

Instructions For Completing the Joint Permit Application Form

General. After completing the application form, **SUBMIT ONE COPY TO THE CORPS, ONE COPY TO THE OREGON DIVISION OF STATE LANDS**, and keep one copy for your records. The address of each agency is listed on the first sheet of the application form and on page 2 of this application package. It is important that the application be complete and accurate. Space on the application form is limited. If additional space is needed for any item on the application form, provide the information on a separate sheet(s) of paper and attach it to the application that is sent to each agency.

If you need assistance when completing the form, please call the Corps or DSL. Note that this is a joint permit application but it is not a joint authorization, *i.e., you* must obtain a separate permit from both the Corps and DSL.

Many of the questions on the form are self-explanatory. Information provided on the application form is public record. Information disclosure is voluntary; however, requested data is necessary in order to fairly evaluate the application. If necessary information is missing, the application cannot be evaluated, and the form may be returned.

DSL and the Corps will assign a number when the application is received. You will be notified of the number in an acknowledgement letter so that you may use the number in future correspondence.

Block Number 1. Fill in the name, mailing address, and daytime telephone number of all applicants and authorized agents. If you have designated an authorized agent, the agent(s) may act on your behalf to furnish, upon request, supplemental information in support of the application.

Block Number 2. Provide information about the project location. Try to be as complete as possible. You are encouraged to check the "Yes" circle to allow Corps or DSL personnel to enter your property. Usually you will be called before entering your property. Site visits with applicants helps permit evaluators better understand the proposal.

Block Number 3. Provide basic project information about your proposal.

Block Number 4. State the project purpose and give a full description on how you plan to complete your proposal. Please be as descriptive as you can. If you need more room, continue your description on an additional sheet(s). Some examples of project purposes may be: to remove an aging 3-span wooden bridge with a higher capacity arched culvert bridge; to stop erosion along a 200-foot reach of the Willambia River; or to construct a roadway to a residence.

When you describe your project: Describe the kind of work or kind of facility you propose to construct. Information typically needed includes method of construction; size of area to be filled / excavated; size of construction area; dimensions and extent of structures; type, quantity, and source of fill material; disposal area of dredged or excavated material; amount of material to be excavated or dredged; specify the amount and type of vegetation that will be disturbed; description of area to be filled, *e.g.* 300 feet of old channel will be filled or 0.35 acres of a 7.5 acre palustrine wetland will be filled; adjacent land uses; and any other pertinent information.

Drawings should show general project details so that evaluators and reviewers can obtain a full understanding of what is proposed. Avoid cluttering the drawing with too much information that causes the drawing to be difficult to read and understand. Typical details include cross-section and top views with the dimensions of the project and the project site; project's elevation; a "north" arrow; direction of flow; name of water body or wetland (wetlands are usually adjacent to a named water body or are isolated); water elevation, particularly the ordinary high water (OHW) and/or mean high water (the tidelands) and the high tide line. Be sure to indicate the source of your water datum. Common reference elevations include National Geodetic Vertical Datum (NGVD) (informally called Mean Sea Level (m.s.1.) which is commonly used in non-tidal areas and Columbia River Datum (CRD) that is a plane of reference on the Columbia River from Harrington Point upstream to Bonneville Dam and on the Willamette River from its confluence with the Columbia River to Willamette Falls at Oregon City. Show side slopes, *e.g.*, 1 vertical to 3 horizontal, and dimensions of the structure, channel, or work activity. Additionally, a title block should include the applicant's name, waterway, date, brief (2 - 4 word) description of project; and sheet number of total sheets in set, *e.g.*, sheet 2 of 4. The location map(s) must show the general and the specific areas where the project is located. A topographic (quad) map is particularly useful. This is needed to determine latitude and longitude. Identifiable or landmark features and existing structures need to be identified. The permit evaluator should be able to precisely locate the project site from the location maps. Photos (Polaroid and / or aerial, especially ones from the Farm Service Agency (FSA) (formerly called the Agricultural Stabilization and Conservation Service (ASCS) of the project area are very helpful. If a site is a wetland, please submit wetland delineation data, including a map with data reference points and the wetland's boundary.

All drawings must be submitted on 8 1/2 X 11 paper. If you submit engineering drawings to DSL to provide better project details, submit at least 5 copies. Please review the sample drawings included in this package. They provide guidance about the kinds of information that is needed. These drawings include the minimum details that is typically needed permit evaluation, *e.g.*, vicinity map, project location map, typical cross sections and a representative top view. You may use one 8 X 11 sheet of paper for each project sketch or view. If drawings are drawn to scale, please include a bar graph scale that indicates correct dimensions.

Block Number 5. These questions provide more specific project information. The first question provides an opportunity to present information about how you have evaluated other designs or site locations in your effort to avoid or minimize anticipated project impacts. When your project is designed, it is best to choose the alternative that will cause the least environmental damage and still be practicable and meet your basic project purpose. The second question asks you to describe ways to minimize impacts. This may include reducing the size of the construction area; preventing construction debris, soil and other disturbed material (including return flows) from entering a waterway; proposed temporary and permanent erosion control measures employed to control off-site movement of soil. If necessary, storm water runoff treatment measures to limit flooding and to treat runoff to meet water quality standards; identification of and handling / treatment / disposal of toxic sediments. If present, identify other possible impacts to water quality and proposed mitigation measures; reshaping or constructing side slopes to be at least 1 vertical to 3 horizontal; and revegetating the area, particularly the disturbed area, with native vegetation.

Block Number 6. If a public notice will be issued for your proposal, all who may have a reasonable interest in or may be likely affected by your proposal must receive a copy of the notice. Please include the *mailing* address of all neighbors to the proposed project, including those across the stream or river, in this block. Also list any other authorizations or dealings with either the Corps or DSL that is related to your proposal. If an identification number was assigned, please list the number to assist in cross -referencing your proposal.

Block Number 7. Where applicable, this block should be completed and signed by the local planning official.

Block Number 8. If your proposal is near the Pacific Ocean, you may need to comply with Oregon's Coastal Zone Management Program. This block allows you to certify that you believe your proposal will comply with the Program, and you must sign in this block.

Block Number 9. You must sign in this block. If you have an authorized agent(s), they must also sign in this block. Each application, the one sent to the Corps and the one sent to DSL must have an original, not photocopied, signature. Your signature on the application will affirm that you possess or will possess the requisite property interest to undertake the proposed activity.

Block Number 10. This page provides supplemental information about wetlands at the project site. If a wetland delineation has been completed, please submit the delineation report.

Fees

The State of Oregon requires a fee for all projects except those used for erosion control. This fee is paid up-front and does not guarantee that you will receive a permit. A fee schedule is available upon request from the Division of State Lands. You will be billed for fees if it is not included with the copy of the application that is submitted to DSL. Make checks payable to the "Division of State Lands."

If the Corps of Engineers decides to issue you a Corps regulatory permit, you will be asked to remit: $100 for commercial users; $10 for individuals; and no fee for governing agencies. Wait until the Corps requests you to remit a fee. There is no fee for many proposed projects that have minor impacts. Note: the Corps' fee is in addition to the fee required by the state or other agency.

Penalty: Under 18 USC Section 1001: Whomever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or devise a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Privacy Act Information

The permit application form for requesting authorization to place structures or complete work in or affecting a navigable water, to discharge dredged or fill material in any water of the United States, or to transport dredged material for the purpose of dumping into the ocean is meant to provide information to evaluate a proposal. All the information that you provide is voluntary; it is also public record and anyone may review this information. Complete data is needed to evaluate a permit application, therefore, you are requested to provide as much information as necessary. The application may become part of the record in any litigation action by the Department of Justice involving the work or activity.

NOTE: For a complete application, the Corps of Engineers requires information requested in Blocks 1, 2, 3, 4, 6, 8, and 9.