Wetland Regulations

State and Local Considerations
Oregon Fill / Removal Law

◆ Regulated Activities
  – All removal and fill activities over 50 cubic yards
  – Salmonid habitat – no minimum

◆ Exempted Activities
  – Normal Farming, Forestry and Ranching Practices
  – Converted Wetlands
  – Maintenance
Wetland Protection Under Oregon State Planning Goals

- **GOAL 5**
  - Preserve wetlands in original character unless there is a conflict
  - Environmental, Social, Economic & Energy (ESEE) Analysis
  - Local Wetland Inventory
    - location
    - quality
    - quantity

- **GOAL 16**
  - Classify estuary into management units
    - Natural Units
    - Conservation Units
    - Development Units

- **GOAL 17**
  - Protect major marshes and significant habitats
Coordination of State Goals and Fill / Removal Law

- Local Wetland Conservation Plan
  - Detailed Inventory
  - Assess Wetland Functions/Values
  - Designate Protection/Conservation/Development
  - Mitigation Analysis
  - Policies & Implementing Measures

- DSL APPROVAL
  - Public Need for Proposed Use
  - Practical Alternatives Not Available
  - Mitigation Provided
Washington State Wetland Regulations

- Shoreline Management Act - establishes mandatory local government programs
  - Clark County
    - Rate Wetlands
    - Specify Activities Allowed Without Permit
    - Buffer Width
    - Mitigation Requirements
Regulated Activities

- Removal, excavation, grading, dredging, dumping, discharging or filling > 50 cubic yards or impacting > 1 acre or buffer
- Construction of a structure
- Construction of stormwater management facilities
- Destruction/alternation of wetland vegetation
Rating of Wetlands in Washington

- **Category 1 - Highest Quality**
  - verified habitat for E&T species
  - Bog/Fen and Forested Wetlands - mature trees
  - >7.5 acres with > 3 wetland subclasses including open water
  - connected to another habitat area

- **Category 2 - High Quality**
  - E&T habitat
  - Forested Wetland outside urban area > 1 acre
  - Heron rookery
  - Spawning habitat for anadromous fish
  - >10 acres with >2 wetland classes including open water
  - >5 acres with > 3 wetland subclasses including open water
  - connected to another habitat area
Rating of Wetlands in Washington (continued)

- **Category 3** - More common than 1 and 2
  - Headwater with >5 cfs
  - Streams utilized by salmonids (intermittent or perennial)
  - Perennial streams not used by salmonids
  - Forested wetland within urban area

- **Category 4** - Small, isolated, less diverse vegetation
  - Altered by prior legal activities and if left alone would revert
  - Regulated man-made drainage facilities in natural wetland
  - Intermittent streams without salmonids

- **Category 5** - Marginal wetlands
  - Isolated, with only 1 wetland class with >90% exotic species
  - Altered by prior legal activities and if left alone would not revert
Exempted Wetlands

- **Small**
  - Category 2 & 3 wetlands < 2,500 square feet
  - Category 4 wetland < 10,000 square feet

- **Artificial**
  - Wetland created in non-wetland areas
  - irrigation/drainage ditches
  - swales
  - canals
  - detention facilities
  - treatment facilities
  - farm ponds
  - Not mitigation wetlands

- **Prior Converted Cropland**

- **Category 5 wetlands**
Buffer Widths

- Category 1 Wetland - 300 feet
- Category 2 Wetland - 200 feet
- Category 3 Wetland - 100 feet
- Category 4 Wetland - 50 feet
State Assumption of 404 Permit Process

- States can assume 404 program with EPA approval
- States with Assumption of Program:
  - Michigan
  - New Jersey
- States in Process of Assumption:
  - Oregon
  - Florida
Time Frame to Obtain a Permit

- **Nationwide**
  - Delineation
  - Report
  - Optional Agency Field Visit
  - 30 to 60 days for Letter from Agency
  - Permit Valid for 2 Years

- **Individual**
  - Delineation
  - Report
  - Optional Agency Field Visit
  - Non-controversial -- 60 to 90 days for Permit
  - Controversial -- 180 days to 1 year for Permit (may involve EIS)
  - Permit Valid for 3 Years
Permit Process

Source: Adapted from U.S. Army Corps of Engineers.
Permit Applications
To be reviewed in class

**US Army Corps Of Engineers**  
**Portland District**

**AGENCIES WILL ASSIGN NUMBERS**

Corps Action ID Number  
Oregon Department of State Lands No.

SEND ONE SIGNED COPY OF YOUR APPLICATION TO EACH AGENCY

<table>
<thead>
<tr>
<th>Agency</th>
<th>Address</th>
<th>Phone</th>
<th>Fax</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Engineer</td>
<td>ATTN: CENWP-CO-GP PO Box 2946 Portland, OR 97208-2946</td>
<td>503-808-4373</td>
<td></td>
</tr>
<tr>
<td>State of Oregon Department of State Lands</td>
<td>775 Summer Street NE Salem, OR 97301-1279</td>
<td>503-378-3805</td>
<td></td>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Applicant Name and Address</th>
<th>Business Phone #</th>
<th>Home Phone #</th>
<th>FAX #</th>
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<tbody>
<tr>
<td>Co-Applicant</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Authorized Agent</td>
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<td></td>
<td></td>
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<tr>
<td>Contractor</td>
<td></td>
<td></td>
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<tr>
<td>Name and Address</td>
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</table>

<table>
<thead>
<tr>
<th>Property Owner (if different than applicant)</th>
<th>Business Phone #</th>
<th>Home Phone #</th>
<th>FAX #</th>
</tr>
</thead>
<tbody>
<tr>
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</table>

**PROJECT LOCATION**

<table>
<thead>
<tr>
<th>Street, Road or other descriptive location</th>
<th>Legal Description</th>
<th>Quarter</th>
<th>Section</th>
<th>Township</th>
<th>Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>In or Near (City or Town)</td>
<td>County</td>
<td>Tax Map #</td>
<td>Tax Lot #</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Waterway</td>
<td>River Mile</td>
<td>Latitude</td>
<td>Longitude</td>
<td></td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Is consent to enter property granted by the Corps and the Department of State Lands?</th>
<th>☑ Yes ☒ No</th>
</tr>
</thead>
</table>

**PROPOSED PROJECT INFORMATION**

<table>
<thead>
<tr>
<th>Activity Type</th>
<th>Fill ☑ Excavation (removal) ☒ In-Water Structure ☒ Maintain/Repair an Existing Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brief Description</td>
<td>Fill will involve cubic yards annually and/or cubic yards for the total project cubic yards is wetlands or below the ordinary high water or high tide line.</td>
</tr>
<tr>
<td></td>
<td>Removal will involve cubic yards annually and/or cubic yards for the total project cubic yards is wetlands or below the ordinary high water or high tide line.</td>
</tr>
<tr>
<td></td>
<td>Fill Impact Area is Acres; width; depth</td>
</tr>
<tr>
<td></td>
<td>Removal Impact Area is Acres; width; depth</td>
</tr>
<tr>
<td>Is the disposal area: Upland?</td>
<td>☑ Yes ☒ No Wetland / Waterway?</td>
</tr>
<tr>
<td>Are you aware of any Endangered Species on the project site?</td>
<td>☑ Yes ☒ No</td>
</tr>
<tr>
<td>Are you aware of any Cultural Resources on the project site?</td>
<td>☑ Yes ☒ No</td>
</tr>
<tr>
<td>Is the project site near a Wild and Scenic River?</td>
<td>☑ Yes ☒ No</td>
</tr>
</tbody>
</table>

If yes, please explain in the project description (on page 2, block 4).