

**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
OREGON PLAN IMPLEMENTATION REPORT  
JANUARY 2000 THROUGH MARCH 2001  
JUNE, 2001**

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**Summary of measures**

DLCD reviewed and revised its *Oregon Plan for Salmon and Watersheds* measures in February 2000. We based our revisions on 1) the need to eliminate measures that were redundant or unnecessary, and 2) to recognize that some measures were not ripe for funding and implementation. DLCD's revised measures consist of the following; refer to the narrative for details:

- ❖ **Active Measures:** Two measures only apply in coastal basins. DLCD-1: *Implement the Coastal Nonpoint Pollution Control Program (CNPCP)*, and a related measure, DLCD-5: *Implement CNPCP Urban management measures* involve long-term efforts to reduce nonpoint source pollution in coastal waters.
- ❖ **Delayed Measures:** DLCD-9: *Develop a land use planning and growth management strategy for water quality and aquatic habitat* was delayed due to partial funding, but will be completed later this year. DLCD-10: *Revise Statewide Planning Goals to improve protection of water quality and aquatic habitat* can only be implemented upon the completion of DLCD-9, and only with full funding.
- ❖ **Unfunded Measures:** DLCD-4: *Implement Goal 5 Rules for Riparian Protection*; and DLCD-6: *Update estuary habitat maps*; were not funded in the 1999-2001 biennium, and were not placed in the Governor's recommended budget for the 2001-2003 biennium. DLCD-8: *Outreach/Education for local planning commissions and watershed councils* was not implemented due to insufficient staff resources.
- ❖ **Completed Measures:** The task described in DLCD-2: *Riparian area technical assistance* was completed in 1997 (see the 1998 OPSW Annual Report). However, we continue to provide technical assistance on Goal 5 as part of our routine work with local governments. DLCD-3: *Dynamic Estuary Management Information System (DEMIS)* has been completed.
- ❖ **Deleted Measures:** For a variety of reasons, DLCD-7: *Local Government Salmon Recovery Work Group* is not being implemented.
- ❖ **Base Program:** While Oregon's Statewide Planning Program is not a watershed protection program *per se*, the basic objectives of Oregon's land use program complement those of the Oregon Plan by restricting the conversion of rural resource lands to other, incompatible uses. In addition, the program fosters development of local plan practices that result in compact, attractive communities, thus minimizing the need to allocate productive resource lands for urban uses. The watershed benefits of the Statewide Planning Program were summarized DLCD's *1999 Oregon Plan Implementation Report*.
- ❖ **Other Activities in Support of the Oregon Plan:** In March 1999, DLCD convened a *Riparian Management Work Group* pursuant to EO 99-01. The riparian group completed its work in November 2000. In March 2001, DLCD staff volunteered to co-chair (with DEQ) an *Estuary Monitoring and Management Work Group*.

Several of the reports below refer to DLCD's 1999 OPSW *Annual Report*, which can be viewed at <http://www.oregon-plan.org/ORplan2.pdf> starting on page 44.

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### **Active Measures**

➤ **DLCD-1: *Implement the Coastal Nonpoint Pollution Control Program***

➤ **DLCD-5: *Implement CNPCP Urban Management Measures***

Both DLCD-1 and DLCD-5 involve long-term efforts to reduce nonpoint source pollution in coastal waters. These measures derive from federal requirements for states with federally-approved coastal zone management programs, of which Oregon is one. The Coastal Nonpoint Pollution Control Program (CNPCP) requires states to implement a series of enforceable nonpoint source pollution control "management measures" to address a broad range of diffuse pollution sources in the coastal zone. Oregon's CNPCP is the joint responsibility of DEQ and DLCD; at the federal level the CNPCP is administered by the EPA and the National Oceanic and Atmospheric Administration (NOAA). Oregon's CNPCP submittal received "conditional" approval from EPA and NOAA in January, 1998; several conditions need to be met in order to gain "full" federal approval. Full approval by the federal agencies could result in increased federal funding for implementation of CNPCP nonpoint source pollution control measures.

Oregon's strategy to gain full CNPCP approval is essentially the same strategy used to develop the program submittal in the first half of the 1990s. As such, implementation of DLCD-1 and DLCD-5 involves working with water quality specialists in other agencies to meet the conditions of NOAA and EPA's approval. DEQ and DLCD work with other state agencies to implement the CNPCP management measures through existing water quality and watershed management programs. Thus, for example, CNPCP management measures related to forestry activities are implemented in the Forest Practices Act, and those related to agricultural activities are supposed to be implemented through Oregon's SB 1010 process. Due largely to practical, administrative, and funding considerations, DLCD does not view the CNPCP as a mandate that is independent of other water quality-related programs. Rather, the CNPCP adds value to other, more place-based water quality initiatives such as implementing TMDLs, developing Agricultural Water Quality Management Plans, and developing stormwater management programs.

In 2000, DLCD drafted five- and fifteen-year CNPCP implementation plans, as requested by NOAA and EPA. These plans were acknowledged by the federal agencies late last year; Oregon now has an additional two years to meet the conditions for full approval of the CNPCP.

Much of DLCD's effort under DLCD-5 since the last annual report went toward completing the *Water Quality Model Code and Guidebook*, and preparing presentation materials to promote the voluntary adoption of local land use ordinances that protect water quality and aquatic habitat. Slide presentations and supporting materials are being developed in a joint project with DEQ and the South Slough National Estuarine Research Reserve. The Guidebook was developed as a companion to ODOT and DLCD's *Model Development Code and User's Guide for Small Cities*, which incorporates several provisions for fostering compact, "livable" cities.

The purpose of the water quality guidebook is to provide technical assistance for local governments—in particular, small cities—that likely will need to adopt measures to improve water quality either as part of a TMDL or to address salmon recovery. The *Guidebook* is a compilation of several commonly-used water quality protection measures, options to consider in the process of adopting a local program, and an evaluation of the effectiveness of each measure. The presentations are designed to present relevant information to local planners, elected officials,

and the public concerning the impact of development on watershed function, and management practices available to mitigate these impacts. The guidebook is available on the World Wide Web at <http://www.lcd.state.or.us/publicat/coapubs.html>. Information on the presentation materials and other resources will also be available on DLCD's website once the outreach materials are completed this summer.

### **Delayed Measures**

- **DLCD-9: *Develop a land use planning and growth management strategy for water quality and aquatic habitat***
- **DLCD-10: *Revise Statewide Planning Goals to improve protection of water quality and aquatic habitat***

Work on DLCD-9 has been delayed through the last year due to partial funding, but will be completed later this year. DLCD-10 can only be implemented upon the completion of DLCD-9, and only with full funding.

The purpose of DLCD-9 is to outline a land use planning and growth management strategy that will improve the protection of water quality and aquatic habitat through local comprehensive land use plans. The strategy will address the effects of land use plans and new development on riparian areas, wetlands, floodplains, estuaries, and water quality, and will identify appropriate measures and techniques to improve their protection through local plans. The strategy could ultimately make a significant contribution to a broader locally-developed salmon recovery program or water quality management plan.

Through the summer of 2001, DLCD will interview several people who are knowledgeable about both Oregon's land use program and the *Oregon Plan for Salmon and Watersheds*. The interviews will be designed to document ideas on how the land use program can best support salmon recovery. These ideas will be presented to the Land Conservation and Development Commission at its biennial retreat in September 2001. DLCD-9 will be completed upon the integration of aquatic habitat conservation objectives into the commission's 2001-2003 work plan. Since we had not completed work on DLCD-9, DLCD-10 was not included as an option package in DLCD's 2001-2003 budget. DLCD-10 will essentially remain dormant (and will not be included in DLCD's *Oregon Plan for Salmon and Watersheds* reports) until agency budgets are developed for the 2003-2005 biennium.

### **Unfunded Measures**

**DLCD-4: *Implement Goal 5 Rules for Riparian Protection***

**DLCD-6: *Update Estuary Habitat Maps***

**DLCD-8: *Outreach/Education for local planning commissions and watershed councils***

Neither DLCD-4 nor DLCD-6 were funded in the 1999-2001 or the 2001-2003 biennium, and thus there has been no progress in the past year specifically under these measures. Further reporting on progress under these two measures is contingent on further funding to accomplish their objectives.

DLCD-4 was originally developed to provide funding to local governments to adopt programs to meet the requirements of Statewide Planning Goal 5 for the protection of riparian corridors. In the 1997-1999 biennium, DLCD-4 passed through \$320,000 in state funding for local Goal 5 work. Further implementation of the Goal 5 rules for riparian corridors (and wetlands and wildlife habitat) under DLCD-4 depends on the ability of DLCD to pass funds through to local governments to complete such work. State funding is used to complete inventories, which often

require specialized expertise, and to pay staff costs of developing amendments to the local comprehensive plan and zoning ordinance.

The purpose of DLCD-6 is to develop a methodology for updating Oregon's estuary habitat data, which are the basis for local estuary management plans developed in the late 1970s under Statewide Planning Goal 16-*Estuarine Resources*. There is little clear documented evidence, though there is considerable professional opinion, that estuarine substrates may have changed since first mapped in the early 1970s. New data would provide for the review and revision of local estuary management plans, and would provide for an evaluation of their effectiveness at achieving Goal 16. New data would also facilitate the development of a statewide estuary restoration framework and local estuary restoration plans, and thereby position Oregon to aggressively compete for federal funds for locally-developed estuary restoration projects under the *Estuary Restoration Act of 2000* (PL 106-457, Title I). DLCD will continue to try to identify alternative funding sources for DLCD-6.

DLCD-8: *Outreach/Education for local planning commissions and watershed councils* was originally intended to provide information about the Oregon Plan to local planning commissions, and to provide information about comprehensive land use planning to watershed councils. DLCD-8 was not implemented in the past year due to insufficient staff resources, and is unlikely to be fully implemented without additional staff resources. However, some of the information that would have been included in presentations based on DLCD-8 will be covered in the presentation materials for local planning officials being prepared for the *Water Quality Model Code and Guidebook* discussed under DLCD-5 above.

## **Completed Measures**

### **DLCD-2: *Riparian area technical assistance***

### **DLCD-3: *Dynamic Estuary Management Information System (DEMIS)***

The original task described in DLCD-2: *Riparian area technical assistance* was to develop a model ordinance that could be used by local governments to implement the Goal 5 riparian corridor "safe harbor" option in OAR 660-23-0090. This task was completed under a contract with Tillamook County. A copy of the model ordinance is available from DLCD. Although the specific task described under DLCD-2 was completed in 1997, DLCD does continue to provide technical assistance on Goal 5 as part of the department's routine interaction with local governments.

The development of the *Dynamic Estuary Management Information System (DEMIS)* has been completed in the past year under DLCD-3. DEMIS is a desktop computerized information system whose purpose is to assist in the identification of sites that are suitable for restoration to estuarine function and habitat. (The 1998 *Annual Report* contains background details on this project.) Overall, DEMIS represents a collection of GIS and raster data sets for the Coos, Coquille, Nehalem, Siletz, and Siuslaw estuaries. DEMIS contains a preliminary inventory of areas with potential for restoration and a database which contains restoration-related information for each potential restoration site. A catalog of data sets available through DEMIS is posted at <http://www.lcd.state.or.us/coast/demis/core.htm>. Expansion of DEMIS to the rest of Oregon's 17 largest estuaries is contingent on further funding.

## **Deleted Measure**

### **DLCD-7: *Local Government Salmon Recovery Work Group***

As noted in the last annual report, DLCD's desire to form a *Local Government Salmon Recovery*

*Work Group* under DLCD-7 was superseded by the formation of the so-called “Willamette Urban Watershed Network,” in which DLCD is a participant. (See the Willamette Restoration Initiative’s web site at <http://www.oregonwri.org/>.)

## **Base Program**

### ***Oregon’s Statewide Planning Program***

The basic objectives of Oregon’s land use program complement those of the Oregon Plan by restricting the conversion of rural resource lands to other, incompatible uses. Further, the land use program fosters development of local plan practices that result in compact, attractive communities, thus minimizing the need to allocate productive resource lands for urban uses. The watershed benefits of the Statewide Planning Program were summarized in DLCD’s 1999 *Oregon Plan Implementation Report*.

### **❖ Other Activities in Support of the Oregon Plan**

#### ***Riparian Management Work Group***

In March 1999, DLCD convened a *Riparian Management Work Group* pursuant to Section (3) of Governor Kitzhaber’s Executive Order 99-01. Section (3)(n) states:

*DLCD, DEQ, ODF, ODA, ODFW, and DSL and their respective boards and commissions will evaluate and implement programs to protect and restore riparian vegetation for the purposes of achieving statewide water quality standards and protecting and restoring aquatic habitat for salmonids.*

Staff from all six agencies first met in March 1999 to develop a process to evaluate state programs. A complete report on state agency programs affecting riparian vegetation was delivered to agency directors, the Governor, and agency Boards and Commissions in November 2000. DLCD staff chaired the work group, facilitated work group meetings, and provided final editing and document design.

#### ***Estuary Monitoring and Management Work Group***

In March 2001, DLCD staff volunteered to co-chair (with DEQ) an *Estuary Monitoring and Management Work Group*, which was formed in part in response to questions about the extent of the Oregon Plan into estuaries. The work group is planning to conduct a workshop in Fall 2001 on evaluation and assessment of estuarine conditions.

#### ***Willamette Restoration Initiative***

Throughout the reporting period, DLCD staff was deeply involved in teams whose purpose was to help develop the Willamette Restoration Strategy, published this past spring. In particular, DLCD assisted teams that worked at a *strategic* planning level, including the Willamette Measures Integration Group.

#### ***State ESA Listing for Lower Columbia Coho***

As requested by the Oregon Fish and Wildlife Commission, DLCD spent some time preparing a statement of DLCD’s *Conservation Role for Lower Columbia Coho Salmon*.

#### ***ESA 4(d) Rule “Limit” for Municipal, Residential, Commercial and Industrial Development***

Since its publication in July 2000, DLCD has reviewed and analyzed the National Marine Fisheries Service’s (NMFS) rule governing “take” of several species of salmonids now listed under the federal Endangered Species Act. DLCD’s analysis has been to gauge the effect of the so-called 4(d) rule on both the Statewide Planning Program and on local comprehensive planning responsibilities under the Statewide Planning Goals. DLCD anticipates being able to provide

technical assistance to local jurisdictions that want to develop local programs under the so-called “MRCI limit” in the rule on how such programs can be integrated into local plans under the requirements of Oregon’s planning program. In addition, DLCD anticipates working with NMFS to determine how the federal agency anticipates local plans will need to be altered to provide for the recovery of “properly functioning condition.”

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