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Background Brief on ...

# Oregon Plan for Salmon and Watersheds

## Background

In 1995, following the listing of spring Chinook salmon as threatened under the Endangered Species Act (ESA), the National Marine Fisheries Service (NMFS) proposed listing two Oregon Coast evolutionarily significant units (ESUs) of Coho salmon as threatened species and had plans to review all the populations of salmon in the Pacific Northwest. ESUs are distinct population segments that represent an important genetic component in the evolutionary legacy of a species and are substantially reproductively isolated. Over the following two years, Governor John Kitzhaber and the legislature undertook an unprecedented effort to develop and fund a state strategy to recover coho salmon, an outcome that would have rendered federal intervention unnecessary. In March 1997, the Governor signed into law measures addressing harvest, hatchery, and habitat management, along with a \$30 million funding package to implement the strategy. Based on plan components and the state's financial commitment, for the first time in history, the federal government accepted a state recovery plan and left the species in candidate status.

Oregon signed a Memorandum of Agreement (MOA) with the NMFS and earmarked \$30 million to implement the Coastal Salmon Restoration Initiative on the condition that Oregon Coastal coho salmon were not listed as threatened or endangered. The Oregon Natural Resources Council sued the NMFS in U.S. District Court asserting that the NMFS erred by considering voluntary

and non-implemented measures when making its listing decision. The District Court's decision (97-1155-ST) found for the plaintiffs and required the NMFS to make a new decision without accounting for voluntary or other measures not fully in place. Oregon's appeal was unsuccessful. In August 1998, the NMFS listed the Oregon Coast coho ESUs as threatened. The listing effectively released Oregon from the MOA with the NMFS. Governor Kitzhaber issued Executive Order 99-01 to reaffirm Oregon's commitment to species recovery under the Oregon Plan for Salmon and Watersheds (**Oregon Plan**).

In 2006, the NMFS determined that Oregon Coast Coho did not warrant ESA listing based on a detailed analysis of the biological status of Coastal Coho by Oregon and verified by the NMFS. The federal government was sued on this decision, resulting in the federal court order that required the NMFS to relist Oregon Coastal Coho as a threatened species. The relisting took effect on May 12, 2008. Currently, twelve salmon and steelhead ESUs in Oregon are listed as threatened under the ESA.

Oregon's statutory revisions and existing state and federal law, together with administrative policy and rule changes, form the framework of the Oregon Plan. Statutory provisions are found under ORS 541.405 to 541.415, with additional watershed management requirements and guidelines provided under ORS 541.351 to 541.401.

### **Oregon Plan Mission and Activities**

The mission of the [Oregon Plan](#) is to restore the watersheds of Oregon and to recover the fish and wildlife populations of those watersheds to productive and sustainable levels in a manner that provides substantial ecological, cultural, and economic benefits (ORS 541.405(1)(a)). The Oregon Plan consists of four key elements:

- **Voluntary restoration actions by private landowners** with support from citizen groups, businesses and local government;
- **Coordinated state and federal agency and tribal actions** to support private and voluntary restoration efforts, effectively

implement agency programs, soundly manage public lands, and promote public education and awareness about watersheds and salmon;

- **Monitoring** watershed health, water quality, and salmon recovery to document existing conditions, track changes, and determine the impact of programs and actions; and
- **A scientific foundation** as guided by the Independent Multidisciplinary Science Team an independent panel of scientists who evaluate the plan's effectiveness, identify needed changes, and guide research investments.

A [biennial report](#) provides updates on the accomplishments and continuing efforts of Oregonians to improve and protect clean water and recover and maintain healthy populations of fish and wildlife in our watersheds through the Oregon Plan.

### **Watershed Councils/Soil and Water Conservation Districts**

Many landowners, groups, and government entities are taking voluntary actions to restore the health of Oregon's watersheds, including watershed councils and soil and water conservation districts. At present, about 90 watershed councils have formed across the state. Watershed councils consist of local residents and officials including, but not limited to, representatives of local landowners, public interest groups, industry, Indian tribes, and academic and professional communities, as well as local, state, and federal agencies. Watershed councils are created once recognized by a local government entity such as a county commission. Funding for watershed councils is provided biennially through a competitive grant process.

Restoration projects include fish passage, upland habitat enhancement, water quality improvements, fish screens, riparian area enhancement, and stream habitat improvement. Capacity building refers to watershed assessments, restoration action plan development, monitoring, watershed education, and technical support.

## **Independent Multidisciplinary Science Team (IMST)**

In 1997, the legislature created the [IMST](#) to provide autonomous, scientific review of Oregon Plan implementation. The team consists of scientists with expertise in fisheries, artificial propagation, stream ecology, forestry, rangeland, and watershed and agricultural management jointly appointed by the Senate President, the Speaker of the House, and the Governor. The IMST periodically reviews the Oregon Plan and makes recommendations for adjustments. State agencies must respond to the IMST recommendations. The team also serves as independent reviewers of Oregon recovery and conservation plans. The IMST has issued technical reports on several topics including conservation and recovery plans, fish harvest management, stream temperature, fish hatchery management, forest practices, monitoring and indicators, and riparian area management.

## **Oregon Watershed Enhancement Board (OWEB)**

Under House Bill 3225, the 1999 Legislative Assembly replaced the Governor's Watershed Enhancement Board with OWEB, making it an independent state agency. OWEB provides grants to help Oregonians take care of local streams, rivers, wetlands and natural areas. Community members and landowners use scientific criteria to decide jointly what needs to be done to conserve and improve rivers and natural habitat in the places where they live. OWEB grants are funded from the Oregon Lottery, federal dollars, and salmon license plate revenue.

The agency is governed by a 17-member board including 6 public members, 5 voting representatives of state natural resource agency boards and commissions, and 6 nonvoting representatives of federal agencies and the Oregon State University Extension Service.

## **Ballot Measure 66 and Funding**

Ballot Measure 66, approved by voters in November 1998, amended Section 4, article XV of the Oregon Constitution to dedicate 15

percent of net lottery proceeds; half to improve state parks and half to finance the restoration and protection of native salmon populations, watersheds, fish and wildlife habitats, and water quality. Between 1999 and 2009, the amount of lottery proceeds deposited in the Restoration and Protection Subaccount grew from \$43.4 million to \$99.5 million. Lottery proceeds are down for the 2009-2011 biennium, with \$85.3 million projected. Ballot Measure 66 directs the legislature to refer the question of continued use of lottery proceeds back to Oregon voters at the November 2014 general election. However, there is an effort underway to put a measure on the November 2010 ballot. If a renewal measure does not pass, Ballot Measure 66 will be repealed on January 1, 2015.

## **Recent Legislation**

Senate Bill 513 (2009) establishes that it is the policy of the state to support the maintenance, enhancement, and restoration of ecosystem services. State agencies are encouraged to adopt and incorporate adaptive management mechanisms. The measure requires that if a state agency adopts a strategy that calls for mitigation that they consider strategies that recognize the need for biological connectivity at a landscape scale, rather than an automatic preference for on-site, in-kind mitigation. Senate Bill 513 requires that the Sustainability Board convene an ecosystem services markets working group and requires that the Board report back to the legislature no later than January 1, 2011.

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