



Water Savvy

Issue #7

WHAT YOU NEED TO KNOW ABOUT YOUR DRINKING WATER

November 2010

A Closer Look at Environmental Permitting

In August 2008, the cities of Lake Oswego and Tigard formally endorsed a partnership agreement for sharing drinking water resources and costs. Lake Oswego's water supply system is near capacity and key facilities need expansion and upgrades. Tigard residents seek ownership in a water supply system. Both cities want to keep water affordable for their customers and sharing the cost of new infrastructure to serve both communities does that. The Partnership is planning to expand Lake Oswego's existing drinking water infrastructure to serve both communities.

The Lake Oswego Tigard Water Partnership is committed to safeguarding the region's natural resources. Many environmental agencies and regulations exist to protect natural resources. The Partnership is working closely with federal, state and local agencies to ensure the program complies with all applicable regulations and the environment is protected.

Environmental Permitting Protects Natural Resources and Public Health

During the 1970s important environmental laws were enacted: the National Environmental Policy Act, Clean Air Act, Clean Water Act, Endangered Species Act, Marine Mammal Protection Act and others. These laws were created to protect the environment and public health. The following section lists regulating agencies and describes the key environmental regulations and their application to the Partnership program.

Permitting Agencies and Regulations

Sixteen independent agencies are involved in permitting for the Lake Oswego Tigard Water Partnership project. Many of the agencies have overlapping responsibilities for protecting water quality, habitat and wildlife. Among these various permitting entities and regulations, the federal and state agencies that oversee the Endangered Species Act and the Clean Water Act, along with Oregon's water rights law, have significant influence on the development of the Partnership project.

Endangered Species Act

The Endangered Species Act (ESA) provides protection for threatened and endangered plants and animals and the habitats in which they are found. Over 1,900 species in the United States are listed as either endangered or threatened. The law is administered by two federal agencies:



U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA) Fisheries Service, also known as the National Marine Fisheries Service (NMFS), has jurisdiction for marine and anadromous fish species (fish born in fresh water, that migrate to the ocean, then return to fresh water to spawn).



U.S. Department of the Interior Fish & Wildlife Service (USFWS) has jurisdiction over all remaining listed species.

Permitting Agencies

- U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency
- U.S. Fish & Wildlife Service
- U.S. National Oceanic and Atmospheric Administration Fisheries Service
- Oregon Department of Agriculture
- Oregon Department of Environmental Quality
- Oregon Department of Fish & Wildlife
- Oregon Department of State Lands
- Oregon State Marine Board
- Oregon Water Resources Department
- State Historic Preservation Office
- City of Gladstone
- City of Lake Oswego
- City of Tigard
- City of West Linn
- Clackamas County

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Endangered Species Act *continued on from page 1*

Section 7 of the ESA requires all federal agencies to consult with USFWS and/or NMFS on any action they are proposing that could affect an endangered or threatened species.

Species in Project Area with ESA Status

Common Name	Listing	Agency
 Fall & Spring Chinook Salmon	Threatened*	NMFS
 Coho Salmon	Threatened*	NMFS
 Winter Steelhead	Threatened*	NMFS
 Nelson's Checker Mallow	Threatened*	USFWS
 Willamette Daisy	Endangered [†]	USFWS

***Threatened:** *species likely to become endangered within the foreseeable future throughout all or a significant portion of its range*

[†]Endangered: *species in danger of extinction*

Clean Water Act Section 404

The focus of the Clean Water Act is protecting surface water quality. The law includes provisions to reduce direct pollutant discharges into waterways, manage pollution in stormwater runoff, and finance municipal wastewater treatment facilities.

Section 404 of the Clean Water Act regulates the placement of dredged or fill materials into wetlands and other waters of the United States (streams, rivers, lakes, bays, estuaries, and portions of the oceans). The 404 permit program is administered by the U.S. Army Corps of Engineers and Oregon Department of State Lands. The USFWS, the Oregon Department of Fish and Wildlife and NMFS are consulted when a Section 404 permit is issued in an area that has endangered or threatened species.

Clean Water Act Section 401d

Oregon Department of Environmental Quality will need to independently certify that the project will not have unacceptable impacts on water quality and fish species.

Water Rights

The City of Lake Oswego holds surface water rights that authorize the use of water from the Clackamas and Willamette Rivers. These water rights are currently estimated to provide enough water to meet Lake Oswego's and Tigard's needs for the next 20 years. Lake Oswego is seeking time extensions to fully develop these permits. The City of Lake Oswego is permitted through the Oregon Water Resources Department under state law to withdraw drinking water from the Clackamas River. This approval, however, does not exempt the City from federal Endangered Species Act and Clean Water Act permitting requirements in conjunction with in-water construction.

Water Withdrawal and the Permitting Process

Improvements to key Partnership facilities will trigger federal, state and local permit requirements. Rebuilding the water intake on the Clackamas River and laying a new pipeline under the Willamette River and through several wetlands will require the Partnership to obtain a Section 404 permit from the U.S. Army Corps of Engineers.

Section 7 of the Endangered Species Act requires the U.S. Army Corps of Engineers to consult with NMFS and

USFWS on whether issuing a permit to the Partnership will affect any threatened or endangered animals or plants. Although the U.S. Army Corps of Engineers will look only at the impacts of construction, NMFS and USFWS must review all impacts that would result from the issuing of a permit, including an increase in water withdrawal from the Clackamas River. The impacts, if any, of these withdrawals are currently being studied.

A Biological Assessment that demonstrates that additional withdrawals are not likely to adversely affect listed species is currently underway. The Partnership's assessment results will be submitted to USFWS and NMFS by the Corps of Engineers for agency consideration in 2011. In response to the biological assessment, USFWS and NMFS will complete a Biological Opinion that documents the opinions of both agencies as to whether issuing the permit will likely jeopardize the continued

existence of listed species or result in unacceptable loss of critical habitat. If the new intake and/or increased withdrawals are found to adversely affect endangered species, the Biological Opinion will propose mitigation measures to protect listed species. The Biological Opinion is expected to be issued by the federal agencies in 2012.

Avoiding, Minimizing and Mitigating Impacts

The Partnership has retained leading experts in environmental science and fisheries biology to help identify possible impacts to critical habitat resulting from the planned improvements. This team will also develop strategies to avoid, minimize and mitigate possible impacts. Natural resource protection plays a pivotal role in decisions about potential pipeline routes and facilities siting alternatives. Whenever practical, impacts will be avoided. If the impact can not be avoided entirely, steps will be taken to minimize the impact. Mitigation measures will be developed during the project's design phase.

Commitment to Watershed Protection

Lake Oswego currently participates in watershed protection and planning activities with several groups active in the Clackamas River Basin and regionally. The City of Lake Oswego contributes financially to the management and implementation of basin-wide and local programs to protect and enhance Clackamas River water quality for environmental and municipal supply purposes. Currently the City contributes about \$85,000 annually as its share of costs for programs undertaken by partner organizations: the Clackamas River Water Providers, the Regional Water Providers Consortium and the Clackamas River Basin Council.

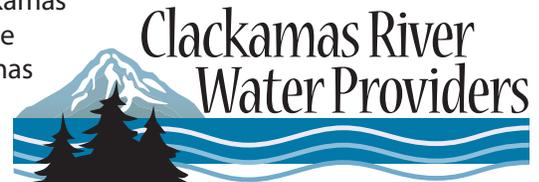


Clackamas River Water Providers work with Portland State University to develop and maintain a model of stream flows in the lower Clackamas River.

More About Clackamas River Water Providers

The six water providers in the Clackamas River Basin have been working together on water resource issues for more than a decade. In July 2005 the water providers and Clackamas County Water Environment Services signed an intergovernmental agreement for joint funding of watershed protection activities. In 2007 these efforts were expanded to include water conservation and broader water resource issues.

A second intergovernmental agreement created Clackamas River Water Providers. Membership includes representatives from the Cities of Estacada and Lake Oswego, Clackamas River Water, the North Clackamas County Water Commission, South Fork Water Board, and Sunrise Water Authority. There are currently two staff: a Water Resource Manager and Water Conservation Program Coordinator.



The organization's mission is to fund and coordinate efforts for source water protection and water conservation.

Clackamas River Water Providers has spent over one million dollars during the past ten years on watershed protection projects. This has included funding to complete watershed assessments in the Clackamas River Basin, models of the lower river basin flows, installation of water quality monitoring stations, algal and pesticide studies, and other water quality related projects. These projects have been conducted in partnership with a variety of organizations including Portland State University, US Geological Service, and the Clackamas River Basin Council.

Learn More

For questions about environmental permitting for the Partnership project contact:

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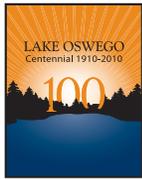
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**Lake Oswego · Tigard
Water Partnership**
sharing water · connecting communities

lotigardwater.org · 503-697-6502

For more information about the Lake Oswego Tigard Water Partnership visit www.lotigardwater.org or contact:



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