Strategic Plan and Action Plan Matrix for Enhancing Efficiency of Regulatory Review of Stream Restoration Projects on Private Lands

Oregon Plan Core Team
and
Stream Restoration Partnership

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Strategic Plan for Enhancing Efficiency of Regulatory Review of Stream Restoration Projects on Private Lands

Goal:

Making private land restoration easier on a landscape scale and at an accelerated pace that promotes the quality conservation outcomes needed to attain watershed health in a meaningful timeframe.

Pre-amble:

Habitat impacts in Oregon over the past 100-plus years have resulted in species declines, water quality impairment, and significant watershed health problems. In response to these outcomes a regulatory structure was created in the 1960's and 1970's aimed at preventing further environmental damage. The regulatory construct of permitting, consultation, mitigation, and other processes was created under federal laws such as the Clean Water Act, Rivers and Harbors Act, National Environmental Policy Act, Endangered Species Act (ESA), and National Historic Preservation Act, as well as state-based legal authorities. This approach was established primarily as an anti-degradation, damage prevention approach through the regulation of specific activities (e.g. discharge of fill, discharge of pollutants, etc.). Since the focus at the time was to prevent damage, restorative actions were not considered in the development of the laws. Thus, damage reversing, beneficial habitat restoration actions are reviewed under the same construct that environmental damaging projects are evaluated.

After three decades of effort under the Clean Water Act and recent listings and recovery planning efforts under the Endangered Species Act, there has become an increasing emphasis and funding for habitat restoration projects. The need to implement recovery plans for ESA-listed salmonid species, water pollution reduction plans tied to TMDLs, and conservation strategies for at-risk species and habitats brings a different focus to environmental regulatory processes. Public lands in Oregon, while extensive, will not alone achieve water quality, species recovery, and broader aquatic conservation objectives. Many of the highest priority habitats and highest restoration-potential sites exist on privately owned lands, making actions by private landowners crucial for conserving freshwater habitats across the landscape. In addition, historic development activities have been focused on private lands requiring restoration of legacy impacts as a significant effort to restore watershed functions.

Population growth, development, and climate change will place increasing pressure on Oregon's already compromised freshwater systems. Landscape development has occurred in a piecemeal basis but has accumulated through time (more than 150 years) to result in significantly altered watershed functions. To reverse this accumulated effect, restoration must take place at a landscape scale. The current regulatory process is scaled at the project level that evaluates each action individually.

While regulatory review of restoration projects is necessary to ensure that unintended adverse consequences are avoided, the level of review should be commensurate with the risk of the project. Federal and state regulations formally adopt a risk avoidance approach to permitting. This approach creates difficulties in obtaining timely review of restoration projects. Finding

ways to consider landscape level review of restoration actions and to evaluate risk at a landscape level rather than a project level might help to facilitate needed restoration actions and reduce the perceptions of regulatory gridlock in restoration actions.

The current regulatory program has been built piecemeal through time and through individual pieces of federal legislation, state legislation, local government regulation and exercise of tribal authorities. The regulatory "system" is not a system; it is a collection of occasionally interacting parts each with its own history, requirements, range of authority and limitations. Regulatory agencies have attempted to synchronize the requirements; however, given the myriad moving parts (i.e., varying laws, authorities and regulatory procedures among the implementing agencies), expectations of significant change without legislative action may not be realistic.

There are a growing number of individual programmatic compliance documents and separate permitting efforts to address a particular class of permitees, objectives, funding programs, or geographies. In a number of instances these efforts have significantly streamlined the process for individual applicants and groups. However, varying interpretations of regulators can make even these efforts less certain.

Since timely permitting requires clear communication of proposed actions and potential consequences of those actions, efforts to facilitate early and clear communication have been helpful in assisting the current process. These efforts can be hampered when regulatory agencies are overly centralized in a headquarters setting, instead of engaging in localized assistance and being available for field conversations.

The State critically needs private landowner involvement to make significant headway in habitat restoration. Much restoration work is being done through watershed councils, SWCDs, and other entities. Exploring the regulatory flexibility of agencies to expand the scope (landscape level) and increase the range (integrated permitting) can help Oregon achieve goals of watershed health.

The Oregon Plan for Salmon and Watersheds and Stream Restoration Partnership

The Oregon Plan for Salmon and Watersheds, formally initiated in 1998 to improve the health of watersheds and salmon, has as its mission *"to restore our native fish populations – and the aquatic systems that support them – to productive and sustainable levels that will provide substantial environmental, cultural, and economic benefits."* With the advent of ESA-listed fish species, the Oregon Plan has taken on a new relevance for addressing conservation and recovery. The Oregon Plan Core Team (a state/federal interagency team chaired by the Oregon Governor's office) is the lead team within state government for natural resources communication, coordination and collaboration. In addition, many citizens throughout the state are engaged in voluntary restoration projects and efforts, primarily through watershed councils and soil and water conservation districts, as a result of the Oregon Plan.

The Stream Restoration Partnership (SRP) evolved out of an Oregon Governor's office-endorsed project sponsored by The Freshwater Trust and the Oregon Department of State lands and facilitated by Oregon Solutions. The goal of the SRP is to facilitate more restoration actions by private landowners in and along streams across the state to improve freshwater health in a

timelier manner. While the Oregon Solutions effort began with a focus on a project of The Freshwater Trust known as StreamBank, which uses web-based technology and works to advance policy changes that together bring efficiencies to the funding and regulatory side of stream restoration, the SRP emerged as a broader approach needed to address the breadth and depth of the problem described in the Preamble above. The SRP approach focuses on using new tools and new thinking to address institutional barriers to efficient restoration actions, primarily in the project funding and permitting arenas, and in ways that enhance efficiency without sacrificing project quality. Many agencies are members of both Core Team and the SRP, which underscored the need to gain efficiencies by combining efforts on common work priorities.

Approach/Framework Going Forward:

Ongoing efforts to address efficiencies and coordination in the funding and regulatory processes for voluntary stream restoration projects have advanced some successes and identified additional areas of needed work. To that end, the Oregon Plan Core Team and the Stream Restoration Partnership (SRP) have partnered in an attempt to address the inefficiencies in the regulatory system and facilitate the delivery of enhanced and accelerated stream restoration projects on private lands. The Core Team's revised charter includes federal agencies as members, prioritizes regulatory efficiency efforts, and specifically names the SRP as a work group component of the Core Team's overall Oregon Plan work. With the backing of the Oregon Governor's Natural Resources Office and the engagement of relevant regulatory entities at the Core Team table, the work group is linked to key decision makers. Because the SRP contains restoration practitioner, NGO, and other members beyond that of the Core Team, benefits in addressing stream restoration issues should flow from the engagement of a broader base with connections to on-the-ground work and local communities.

The SRP/Core Team work group will primarily focus on regulatory efficiencies, while not ignoring other needs in the areas of prioritization (identifying and focusing efforts where the needs are greatest), outreach/education, and efficiency gains in the funding realm. Finding the range of flexibility to enable landscape level review and performance-based approaches to aquatic habitat restoration is the common goal among the SRP/Core Team.

An ad hoc steering committee was formed to help steer and lead this effort. This committee is comprised of several state and federal agency staff as well as the Governor's Natural Resources Office, and the past Board chair of the Department of Agriculture, with the inclusion of other members as needed or desired. The committee receives process and facilitation support from Oregon Consensus. This committee serves a role in enhancing communication among agencies and entities, vetting issues at a small-group level, shaping the direction of actions and discussions within the joint Core Team and Stream Restoration Partnership meetings, producing products for joint team action, and tracking progress of projects taken on by the joint group. This Strategic Plan and the appended Action Plan are the products of extensive deliberation by the steering committee.

Removing barriers to stream restoration efficiency will likely necessitate a close look at institutional processes, policies and risk tolerances, as well as landowner and practitioner experience and expertise. It will also necessitate a collaborative engagement of state and federal agencies, local government, and the restoration community; creative use of technology, the

internet, and data sharing; "user-friendly" production of information, permit processes, and performance standards; informing the restoration community and private entities of changes and improvements and providing training; providing encouragement with incentives; dispelling myths and diluting negative perceptions with factual information; and offering resources to facilitate and support restoration project efforts. A strategic approach to restoration prioritization would provide value in helping to collectively focus efforts where the needs are greatest (e.g., recovery plans drive strategic priorities). Ultimately, there is the need for a more integrated and landscape scope approach to effect broad-scale restoration.

Current and future challenges to implementing this Strategic Plan will be dependent on agency and funding capacity, especially in this recession and budget-cutting climate. Agency-specific cultures and missions can also be a challenge as they result in differing regulatory philosophies, perspectives, priorities, and opinions on what can work and what flexibility and limits they have.

All of the state and federal agencies involved in this effort, as well as other conservation entities, are committed to removing impediments and streamlining and integrating the regulatory pathway as much as possible. All also agree that good progress has already been made with a number of recent steps taken. These successful actions can be built upon and broadened to increase the scope and scale of improvement in the regulatory review process. These initial successes include:

- Development of General Authorization (DSL) and Regional General Permit (Corps) specific to certain stream restoration work
- Development of electronic permitting on the DSL website
- Passage of HB 2155 that exempts permit requirement for certain restoration actions
- Development of "restoration programmatics" for a number of federal agencies
- Compilation of existing programmatic Biological Opinions for restoration so that potential users can more easily access them and determine which may apply to their project
- Development of a StreamBank Web Tool that has the ability to assist in project prioritization, information dissemination prior to project design/development, and coordination of funders
- StreamBank pilot projects (expand)
- Initial development of a River Restoration Assessment Tool (River RAT) which provides guidance to federal and state permit applicants and government staff for stream and habitat restoration efforts (USFWS)
- Beginnings of a Fish Passage Barrier Removal "toolbox" which provides a listing of data requirements from multiple agencies for fish passage projects
- Regional General Permit (Corps) for LWD, Boulders and Gravel that expedites approval for instream projects
- Conducted initial practitioner surveys by DSL, OWEB, NOAA, BEF, TFT
- USFWS policy direction on restoration/regulatory approach and risk management
- Implementation of a USFWS led "restoration team" concept, collectively focusing on higher risk projects
- Inclusion of federal agencies as regular partners/participants in Core Team
- Inclusion of Stream Restoration Partnership as a workgroup to Core Team

- Revision of Core Team Charter to reflect and codify new directions, members and partners
- DEQ commitment for 319 funding to The Freshwater Trust's Streambank Project, in 2009 and 2010
- MOU entered into by Freshwater Trust and USACE representing a significant commitment by both parties to increase the quality and pace of voluntary habitat restoration

This Strategic Plan represents a compendium of actions perceived as necessary to address the barriers and achieve the goal articulated above. The Strategic Plan is comprised of actions that are relatively important in the near future (6 – 18 months), and that are reasonably attainable. A specific Action Plan matrix is appended in this Strategic Plan that identifies action timelines and responsible entities. From existing and emerging survey and assessment results (*see* **Objective 1**), the Action Plan will be refined and refocused as necessary.

Strategic Plan Objectives, Strategies and Actions:

Objectives:

- **Objective 1: Needs Assessment (refine the definition of the problem and clarify the needs)**
  - Strategy 1: Conduct precursor survey of practitioners and regulators and analyze existing survey information to refine the identification of specific problems, barriers, and needs, and the actions necessary to address.
    - Problem: Honing the understanding of the barriers, needs, and perceptions is the first step toward improving the stream restoration regulatory process and experience. An analysis of past surveys and research by various agencies would inform and direct future actions. It would also help distinguish between perception and reality when it comes to the workings of the current regulatory system. Additional survey effort is needed to achieve a clearer picture of the current problems as an "as applied" / "on-the-ground" matter and potential ways to mitigate and eliminate them.
    - Actions:
      - Analyze existing survey information from TFT (2008), DSL (2007), NOAA (2009)
      - Develop survey design with appropriately-framed questions, and target audience identified; conduct survey. Use the survey also as an outreach tool (e.g., the existence of this effort).
      - Agencies incorporate survey-type questions into annual reporting requirements
      - Query applicants/practitioners as to their project intentions that may not be covered under a current programmatic
      - Review applicable lessons learned from WRPPIT outcomes
      - Look at national survey for restoration/education needs; bring information into survey process
      - De-construct and compare "problem projects" and "successful projects" to identify issues and propose solutions

- **Objective 2: Remove Barriers and Advance Regulatory Efficiencies**
  - ♦ Strategy 1: Risk avoidance and tolerance assessment
    - ➢ Problem: Low risk tolerance tends to lead to risk avoidance, more regulatory scrutiny of project proposals, and delays in approval, affecting funding. Distinguishing between regulatory approaches for lower risk projects versus higher risk projects, and where to allocate increasingly scarce staff time (e.g., front end process versus tail-end verification of project outcomes and compliance with agency design criteria, permit terms and conditions, project goals) is a matter of regulatory philosophy where inconsistencies appear to remain. Agency perspective as to the definition of "risk" and variant risk levels (low vs high) is inconsistent, and different agencies have different baseline information needs and comfort levels when assessing risk and scrutinizing project designs. This leads to different approaches among agencies toward approving restoration actions. This leads to landowner and restoration practitioner frustrations over time delays, perceived inconsistencies and frustration with agency risk aversion for needed restoration work.
    - ➢ Actions:
      - Agree to definition of "Restoration Project"
      - Assess agency-specific risk tolerances for different types of restoration projects and regulatory philosophy, discuss rationale and possible use of tools (e.g., RiverRAT) to reach agreement on risk.
      - Conduct a "problem-project" assessment to identify emergent agency-specific issues and to understand differences between agencies and authorities and their risk tolerances
      - Seek and promote agency consensus on acceptable risk tolerance
      - Message to leadership the need for consistent and complementary agency policy direction (state/federal), based on common risk tolerance & philosophy
      - Identify / work with Restoration Center staff on providing criteria to demonstrate low risk opportunities and effective projects
      - Identify class of low-risk projects

  - ♦ Strategy 2: Integrate and align state/state, state/federal, and federal/federal processes and philosophies
    - ➢ Problem: State and federal regulatory processes often appear mis-aligned, which can create confusion, complexity, and regulatory disconnects; regulatory staff have differing perspectives, expertise, and professional opinions which can delay project approval and in turn affect funding. Cultural resource reviews are often the last, which can additionally delay projects.
    - ➢ Actions:

- Identify and experiment with better regulatory review models/approaches for both state, federal, and local processes
- Engage DLC D to formulate language to help streamline through the land-use process.
- Identify incentives for local gov't and landowners to engage in restoration projects as result of NFIP BiOp; encourage local gov't to adopt state standards and processes
- Develop schematic illustrating alignment & process lines, timelines, and array of agencies involved with reviews
- Look at improving CREP project review process.
- Identify where and how state and federal processes are mis-aligned; identify ways to correct, re-align and integrate as much as possible
- Meet with federal and state executives to inform of effort, goals, objectives, and outcomes; ensure support for collaborative effort
- Evaluate the completion of Declaration of Cooperation commitments and Implementation Plan items from Oregon Solutions Project, as they fit into this Action Plan

♦ Strategy 3: Facilitate coordination and collaboration within and among federal agencies, state agencies, and other relevant entities (e.g., tribes).
  - ➢ Problem: Discontinuous or disconnected review processes or inconsistent responses from different staff can result in agencies being perceived as not working together, either within the agency or between/among agencies; or they are perceived as making arbitrary decisions that result in project delays.
  - ➢ Actions:
    - Seek common agreement on best science and develop mutually agreeable design criteria and performance standards
    - Get consistency among key regulatory agencies on design criteria
    - Identify ways to integrate cultural resource reviews earlier on in the process and in a more timely manner by working with the State Historic Preservation Office
    - Bring other agencies into this effort / discussion (e.g., Farm Services Agency, SHPO, Tribes) based on their regulatory role or as potential project funders

♦ Strategy 4: Evaluate effectiveness of programmatics as well as alternatives that provide a more holistic, consolidated regulatory approach for landscape-scale restoration (federal nexus projects).
  - ➢ Problem: Current permitting is project by project or programmatic by programmatic, which may detract from a more holistic, landscape approach. An alternative that is more consolidated and that looks at a restoration program across a landscape (collection of restoration projects)

should be evaluated to determine current limitations and future possibilities in enacting broad-scale regulatory review. Programmatic coverage may not work for private landowners. The existing number of programmatics fosters inconsistency between documents, the need for revision / renewal of many separate documents, and significant review of separate programmatics.

- Actions:
  - Evaluate existing programmatics, where coverage exits, for whom, and gaps. Discern whether programmatics are the most efficient and effective approach for regulatory agencies.
  - Identify how to make programmatics work better and fill the gaps, recognizing their value and weaknesses, or find alternatives; include an assessment of SLOPES – is it efficient, effective, helpful, working?
  - Consider use of "short form" BO for low impact/risk projects
  - Secure extra resources to ramp up programmatic development where it is needed or desired
  - Discuss opportunity for state programmatic similar to ARBO (Aquatic Restoration Biological Opinion) for USFS/BLM.
  - Identify approaches to create a broader structure for regulatory review (e.g., Restoration Review Team) and coverage, including options such as a 4(d) Limit 8 authorization for use with recovery plan habitat restoration actions, or USACE opportunities such as Freshwater Trust's MOA with Corps for notice-based permits through StreamBank web tool (programmatic on projects authorized in SLOPES)

♦ Strategy 5: Investigate the feasibility of implementing a pilot project and/or different approach models

- Problem: Agency centralization and staff turnover leads to frustrations among restoration entities based on regulatory staff changes or perceived lack of 'on-the-ground" project level knowledge because of the distance of regulatory staff from a project. This feeds the perception that projects could move quickly through the regulatory process if only regulatory staff saw what was really going on, worked to shape it, and if local agency staff were trusted and empowered by their managers and supervisors. Further, staff from the various regulatory entities involved in project reviews often communicate through paper but rarely in the same place and at the same time over a given project, leading to potential disconnects, differing understanding / levels of knowledge about a project, or miscommunication.

- Actions:
  - Conduct a pilot project in a subbasin that supports local, multi-agency review and aligns review in a fiscally efficient manner; do at "front end" of the process. Consider the role of local entities

and expertise in enhancing the process. (e.g., Lower John Day Subbasin)

- Consider and assess existing approaches (pros and cons) that have "pilot model" relevance (e.g., City of Portland's / Bureau of Environmental Services process for regulatory review of its projects w/ various regulatory entities; certification of certain design firms, engineers, or entities as trust-worthy of expedited review based on merit-based past performance of action types; credible liaison review and sign-off; ODOT's PARIT model).
- Evaluate whether such a model could actually save taxpayer dollars compared to the current approach.
- Test new approaches and process models that would reduce time, money, and agency resources spent on review of low-risk stream restoration projects; use a verification process on the back end to assure appropriate outcomes

- **Objective 3: Use Technology to Advance Regulatory Efficiency and Track Success**
  - ♦ Strategy 1: Web-based technology offers tremendous opportunity to streamline processes and produce useful and effective outputs. Develop and refine such technology for use by project proponents from the public at large and proponents with technical expertise..
    - ➢ Problem: Many aspects of the regulatory process are manual or confined in regulatory silos because of the various legal authorities and laws, even though overall regulatory decisions depend on the review of many different entities and different types of information. Information that can shape restoration project design and regulatory compliance documents for the better is not always easily accessible to project consultation. All of the state / federal regulatory agencies can benefit from knowing where the other agencies are in the process, what information they have or need, and whether concerns exist. Project proponents would also benefit from knowing where they stand in the regulatory process.
    - ➢ Actions:
      - Develop interactive communication tools for regulatory and comment agencies so as to more clearly and quickly coordinate needed decision steps (e.g., virtual chat room, portal).
      - Seek opportunities to enhance project evaluation and management tools such as StreamBank using other technology pieces (e.g., RiverRAT) to improve project prioritization, design, regulatory compliance, and fiscal and biological reporting.
      - Track project success with the use of technology (e.g., Conservation Project Registry) to capture project locations, monitoring results and effectiveness, as well as tools that can calculate habitat uplift based on project success. This will be especially relevant in the context of the development of ecosystem service markets and credit calculations.

- Develop interactive web-based map that informs of consultation / permits needed for certain types of actions (i.e., Regulatory Wizard)

- **Objective 4: Facilitate Restoration Permit Application Process**
  - ♦ Strategy 1: Revisit the applications and application processes used to ascertain where efficiencies could be gained and user-friendly aspects could be incorporated.
    - ➢ Problem: The time spent completing and awaiting response to various permit applications can be considerable. Application incompleteness or mistakes can cause delays in the process for project proponents.
    - ➢ Actions:
      - Review and simplify applications and application process for various permits
      - Consider development of a combined application and reporting form that meets information needs of multiple agencies
      - Obtain feedback from applicants on application process and forms, possibly during workshops or Obj. 1 survey process
      - Advance electronic permitting in ways that improve application completeness and speed in reaching final decision.
      - Provide agreed-to performance standards / design criteria information in application to help applicant "design to yes".
      - Develop combined list of data requirements from multiple agencies, and use in permit application

- **Objective 5**: **Effective and Strategic Prioritization**
  - ♦ Strategy 1: Agencies need a common focus for restoration to be optimally effective. Agencies need to communicate common priorities and collaborate for synergistic/collective effects.
    - ➢ Problem: Project implementers and resource managers can have differing senses of priorities for restoration actions, designs, and locations. This can create the "random acts of kindness" scenario and does not focus collective resources at key problems/areas to effect greater positive impact, resulting in spotty success in divergent areas. Project effectiveness can be compromised by miss-alignment of priorities or actions by others.
    - ➢ Actions:
      - Develop prioritization guidelines for practitioners and others associated with restoration projects
      - Analyze priority overlaps among agencies to identify aligned needs and focus opportunities
      - Use recovery plan Implementation Teams, under leadership of Implementation Coordinator, to help identify project priorities for listed- fish population recovery.
      - Use decision support tools / technology and data layers (e.g., StreamBank) to guide project development and funding in line with priority criteria (i.e., steer towards "if a project is done in X

location and of Y action type, then it will address multiple priorities and associated funding programs")

- **Objective 6: Restoration Outreach and Education**
  - ♦ Strategy 1: Landowners and practitioners need to be kept up-to-date on restoration regulatory review changes and improvements; this could help foster their involvement. Provide training, workshops, and outreach to promote awareness and technical knowledge and provide empowerment.
    - ➢ Problem: Landowners, restoration practitioners, and even agency staff often assume the regulatory system is broken and nothing has been or is being done to improve efficiency, coordination, and process. Communication of efficiency tools and policy changes to the restoration practitioner community, or providing clarification of agency roles and processes, may help garner support, promote understanding, defuse miss-perceptions, and improve efficiency and effectiveness in moving through the regulatory system
    - ➢ Actions:
      - Identify the "practitioner community" to receive outreach/education
      - Identify trainers and workshop providers
      - Conduct workshops and training sessions
      - Design and implement iterative surveys to track progress, refine actions and do outreach; use (slightly modified) annual reporting systems in place (DSL, OWEB); use these iterative surveys as outreach and education tools
      - Do opportunistic communication with landowners, practitioners, funders to identify examples and specifics on problems within current regulatory system; bring to clearing house forum(s) for discussion
      - Develop or update restoration resource guides (e.g., removal/fill guide; aquatic habitat restoration enhancement guide, …)
      - DEQ educate public on water quality reviews
      - Inform users of risk pinch points and the reality of agency timelines

- **Objective 7: Clearinghouse and Problem Solving**
  - ♦ Strategy 1: Develop a forum wherein recurring or episodic regulatory issues can be openly vetted among executive level management and restoration partners.
    - ➢ Problem: Regulatory issues can remain unresolved and will likely be repeated if management is not aware of issues and supportive of change and corrective action; more open communication is needed between management and conservation partners in stream restoration.
    - ➢ Actions:
      - Establish ad hoc steering committee to help guide Strategic and Action Plan processes, and joint Core Team (management)/SRP functions.

- Bring permitting and regulatory issues, problem episodes, and applicant conversations to the table (Core Team, SRP) for discussion, resolution, and accountability; fund staff support and facilitation of SRP and Steering Committee (end 2010)
- Consider the use of other forums that focus on matters associated with restoration regulation.

- **Objective 8**: **Incentivize Restoration for Landowners and Practitioners**
  - ♦ Strategy 1: Create incentives for landowners/practitioners to encourage their interest in and desire for restoration and reduce the burden that they shoulder. This will help advance and accelerate restoration.
    - ➢ Problem: Landowners and associated restoration partners are hesitant to engage in projects because of the associated workload, time commitment, uncertainty and frustration over the regulatory process and potential liability. In addition, landowner willingness to undertake certain actions depends on impact of that action to their economic bottom line. Incentives could improve willingness to do restoration which would advance restoration objectives. From a practitioner's perspective, improved regulatory efficiency is needed to incentivize actions on private lands.
    - ➢ Actions:
      - Assess state of liability for landowners and restoration practitioners, consider options for reducing liability for restoration project work, and assess adequacy of current liability coverage in statute or elsewhere; consider options for reducing liability
      - Provide enhanced technical assistance; modify as appropriate Farm Bill funding-related programs and incentives (e.g., CREP)
      - Create a barrier-free process (i.e., this Action Plan)
      - Identify incentives by probing practitioners (what would help?)
      - Identify other incentives for legislative and policy discussions/actions, including engagement of ecosystem service market development.

Long-Term Approaches:

Some needed actions are beyond the temporal scope of this Action Plan but are nonetheless important to keep on the "radar screen". The evaluation of and support for agency resources at levels and in ways necessary to improve efficiencies and coordination will be an important component for ensuring success. In most circumstances, agency resources are insufficient due to current and foreseeable budget constraints. This can prevent the instigation of creative approaches to permit processing that may benefit from additional staff resources. Collectively, state and federal prioritization for specific job duties and fiscal support for positions would go a long way in facilitating creative approaches to more efficient solutions.

Action Plan Matrix

For Enhancing the Efficiency of Regulatory Review of Restoration Projects on Private Lands

Objective 1: Needs Assessment

Strategy 1: Conduct precursor survey of practitioners and regulators and analyze existing survey information to refine the identification of specific problems, barriers, and needs, and the actions necessary to address.

Actions	Responsible Party	Timeline/Deadline	Comments
1. Analyze existing survey information (TFT '08, DSL '07, NOAA '09)	TFT	ASAP	Inform development of new survey
2. Develop new survey design, with appropriately framed questions, and target audience identified; conduct survey and assess results; use the survey as an outreach tool	OWEB	ASAP	Survey is critical and should be done before anything else; include Question on the criticalness of OWEB funding to project implementation (M76)
3. Agencies incorporate survey-type questions into annual reporting requirements	DSL, OWEB	Annually, ongoing	Regular feedback on critical questions
4. Query applicants/practitioners as to their project intentions that may not be covered under a current programmatic	OWEB		Use as question in survey
5. Review WRRIPT outcomes	GNRO, WRRIPT participants	Dec 2010	Lessons learned; recommendations
6. Look at national survey for restoration/education needs; bring information into survey process	GNRO, OWEB	ASAP	Hone understanding of problem, and identification of where efficiencies can be gained
7. De-construct and compare "problem projects" and "successful projects" – identify issues, propose solutions	SRP workgroup	Dec. 2010 / ongoing	Compare similar projects (e.g., channel reconstruction)

Objective 2: Remove Barriers and Advance Regulatory Efficiencies

Strategy 1: Risk avoidance and tolerance assessment

Action	Responsible Party	Timeline/Deadline	Comments
1. Agree to definition of "Restoration Project"	Core Team (NOAA especially)	ASAP	Different interpretations of "restoration" and what it means ; need a standard definition
2. Assess agency-specific risk tolerances for different types of restoration projects plus regulatory philosophy (i.e., allocation of staff resources - which phases of reg. process create the most gain); discuss rationale and	GNRO, Core Team,	ASAP; Occurs with evaluation of the surveys (see what the issues are)	Need dialog with right agency policy staff; likely to need facilitation and include advance work; examination of River RAT tool

possible use of tools (River RAT) to reach agreement on risk			(continuum of risk); risk assessment can inform customer as to level of info needed for adequate review; look at full range of entities that need to approve projects and their respective risk tolerances
3. Conduct a "problem-project" assessment to identify emergent agency-specific issues and understand differences between agencies and authorities and their risk tolerances (what lines are agencies not willing to cross? What are the types of projects where problems occur?)			
4. Seek and promote agency consensus on acceptable risk tolerance (if agencies communicate interests, missions, and consequences, then there is more opportunity to find common paths and meet other's interests)	GNRO, Core Team, regulatory agencies	Ongoing	Doable? Should be low priority as risk tolerances won't change; agencies have different mandates; need to review surveys 1st ; River Rat – risk matrix; helps with discussion on risk and process barriers; communication process in itself is important; benefit for agencies to know risk tolerances of other agencies and be able to iron out differences
5. Message to leadership the need for consistent and complementary agency policy direction (state/federal), based on common risk tolerance & philosophy	All regulatory agencies; GNRO	After surveys and analysis of results; at Federal Caucus meeting on 11/2, at NR Cabinet.	Incentivize efficiency; requires policy dialog and facilitation; Do joint agency training – indoctrinate staff and work together;
6. Identify / work with Restoration Center staff on providing criteria to demonstrate low risk opportunities and effective projects	NOAA		NMFS should accept it as low risk
7. Identify class of low-risk projects	All		

Strategy 2: Integrate and align state/state, state/federal, federal/federal, and local government processes and philosophies

Actions	**Responsible Party**	**Timeline Deadline**	**Comments**
1. Identify and experiment with better regulatory review models/approaches for both state, federal, and local processes, using information from O1, S1, A4 ("problem project deconstruct)	Federal and state agencies (Core Team); TFT	Next 18 months	"Trust but verify" approach with different time prioritization; Learn from efforts in other states (e.g., CA, WA); look at ODFW/NMFS fish passage review process; need clear standards to govern projects;
2. Engage DLC D to formulate language to help streamline through the land-use process.	GNRO		
3. Identify incentives for local gov't and landowners to engage in restoration projects as result of NFIP BiOp; encourage local gov't to adopt state standards and processes			
4. Develop schematic illustrating alignment & process lines, timelines, and array of agencies involved with reviews	Key regulatory agencies	Soon; would be valuable information	
5. Look at improving CREP project review process.	OWEB, FSA		CREP project review process triggered by funding (rental payment); process is slow, tedious which discourages interest;
6. Identify where and how state/federal processes are mis-aligned; identify ways to correct, re-align and integrate processes	State and federal regulatory agencies	ASAP – next year 2011 (valuable information)	Use new models or info from surveys & project deconstruction to realign; use schematic to display mis-alignments
7. Meet with federal and state agency execs to inform of effort, goals, objectives and desired outcomes; ensure support for collaborative effort	GNRO, Core Team	ASAP (before end 2010)	Identify state/federal forums; Federal caucus; OTAC; Cabinet;
8. Evaluate the completion of Declaration of Cooperation commitments and Implementation Plan items from Oregon Solutions Project, as they fit	State/federal agencies, other entities	ASAP / Evaluate at end of year (2010)	Oregon Solutions project outcomes

this Action Plan			

Strategy 3: Facilitate coordination and collaboration within and among federal agencies, state agencies, and other relevant entities (local govt, tribes).

Actions	**Responsible Party**	**Timeline/Deadline**	**Comments**
1a. Seek common agreement on best science and develop mutually agreeable design criteria and performance standards (goal is to reduce realm of disagreement, move fwd on areas of agreement) 1b. Get consistency among key regulatory agencies on design criteria (e.g., ARBO, SLOPES) (ARBO not = SLOPES)	All regulatory agencies ; possibly small technical work group - include implementers & develop matrix of design criteria in BOs; need to use same design criteria for an action	Next 6 months Review criteria in existing BOs by Dec (new ones take more time) NMFS + USFWS BOs/programmatics	Look at projects using design criteria already in place – compare and assess if there are deviations? How effective is current criteria? What are the outcomes? Is it working and are there additional things we could do? Are outcomes better with agreeable criteria? Look at BOs – are there additional design criteria that would reduce slow-up? Are these design criteria addressing needs of agencies; consider universal use of programmatics that have quantifiable risk; Lessons from Fish Psge. Barrier effort (identify challenges; how avoid pitfalls); look at existing BOs and survey results
2. Identify ways to integrate cultural resource reviews earlier in the process and in a more timely manner by working with the State Historic Preservation Office	GNRO—along w/ TFT and USACE	ASAP	May require facilitation
3. Bring other agencies into this effort, based on their regulatory role or as potential funders	GNRO	ASAP	FSA, SHPO, DEQ, DLCD

Strategy 4: Evaluate effectiveness of programmatics as well as alternatives that provide a more holistic, consolidated regulatory approach for landscape-scale restoration (federal nexus projects).

Actions	**Responsible Party**	**Timeline/Deadline**	**Comments**
1. Evaluate existing programmatics (gaps, coverage, effectiveness); assess use in certain scope of restoration (low risk/impact and high benefit) and discern whether programmatics are the most efficient and effective approach for regulatory agencies.	NOAA, federal, state agencies, GNRO, SRP	ASAP	Programmatic list completed by NOAA; need discussion (re. gaps); use survey info; would NOAA do "low effort" BO on series of "low risk" activities? Prioritize from survey results
2. Identify how to make programmatics work better and fill the gaps, recognizing their value and weaknesses, or find alternatives; include an assessment of SLOPES – is it efficient, effective, helpful, working?	NOAA, federal, state agencies, GNRO, SRP	ASAP	How can they work better for the private landowner?
3. Consider use of "short form" BO for low impact/risk projects	NOAA, Corps		
4. Secure extra resources to accelerate programmatic development, where needed or desired	NRCS	Current effort	
5. Discuss possibility of state programmatic similar to ARBO (for USFS/BLM)			Aquatic Restoration BO Suite of actions within an area that fit criteria – get up front auth and longer term approval;
6. Identify approaches to create a broader structure for regulatory review (e.g., Restoration Review Team) and coverage, including options such as a 4(d) Limit 8 authorization for use with recovery plan habitat restoration actions, or USACE opportunities such as Freshwater Trust's MOA with Corps for notice-based permits through StreamBank web tool (programmatic on projects authorized in SLOPES)	NOAA, USFWS, GNRO, Core Team, SRP	Early 2011	Address whether adding more programmatics is best approach vs. other options that provide more holistic coverage for broad restoration actions. Examples: 4(d) Limit 8 authorization; TFT/Corps MOA ;

Strategy 5: Investigate the feasibility of implementing a pilot project and/or different approach models

Actions	Responsible Party	Timeline/Deadline	Comments
1. Conduct a pilot project in a subbasin that supports local, multi-agency review and aligns review in a fiscally efficient manner; do at "front end" of the process. Consider the role of local entities and expertise in enhancing the process.. Identify a suitable subbasin for pilot project that relies on and accepts local expertise; lay groundwork for pilot	SRP	2011	Lower John Day subbasin as an option? Work with group to develop concept
2. Consider and assess existing approaches that have "pilot model" relevance; assess pros and cons; bring entities in for presentation at Core Team	GNRO / Core Team	ASAP (integrate w/ other relevant actions)	Examples: City of Portland / BES; certification of designers or local entities /merit-based approach; liaison verification; ODOT's PARIT model
3. Evaluate cost-benefit of models – whether they would save money	GNRO /Core Team	When possible	Question: Could agency / tax $$ actually be saved w/ new model / pilot approach ?
4. Test new approaches and process models that would reduce time, money, and agency resources spent on review of low-risk stream restoration projects; use a verification process on the back end to assure appropriate outcomes	All regulatory agencies	After survey assessment	Example: Designate "certified" project designers; field-based/front end team review; verify project outcomes

Objective 3: Use Technology to Advance Regulatory Efficiency and Track Success

Strategy 1: Develop and refine such technology for use by project proponents from the public at large and proponents with technical expertise.

Actions	Responsible Party	Timeline/Deadline	Comments
1. Develop interactive communication tools for regulatory and comment agencies so as to more quickly and clearly coordinate needed decision steps			Virtual chat room or social networking, portal; identify next steps and $ sources; likely limitations to feds due to administrative records requirements; what problem would this

			address?
2. Seek opportunities to enhance existing project evaluation/management tools with other technology pieces to improve project prioritization, design, regulatory compliance, and fiscal and biological reporting	TFT / USFWS	ASAP	Use RiverRAT; StreamBank
3. Track project success with existing technology and habitat uplift assessment tools	TFT	2011	e.g., Conservation Project Registry
4. Develop interactive web-based map that informs of consultation / permit needs for action types	NOAA		i.e., "Regulatory Wizard"

Objective 4: Facilitate Restoration Permit Application Process

Strategy 1: Revisit the applications and application processes used to ascertain where efficiencies could be gained and user-friendly aspects incorporated.

Actions	**Responsible Party**	**Timeline/Deadline**	**Comments**
1. Review and simplify applications and processes for various permits	All agencies	ASAP	Provide needed information to facilitate application development
2. Consider development of combined application and reporting form, meeting info needs of multiple agencies	All agencies		
3. Obtain feedback from applicants on application process and forms	All agencies		During workshops, surveys
4. Advance electronic permitting in ways that improve application completeness and decision speed	DSL, Corps	Ongoing	
5. Provide agreed-to performance standards and design criteria to help applicant design to "yes"; provide uniform reporting format	All agencies		Agencies have "agreed-to" standards; design to "yes".
6. Develop different application process / form for low risk projects			Low risk/low complexity project would require less data, time and effort and simpler application; information needs grow as project becomes complex; how put criteria on a continuum?
7. Develop combined list of data requirements from multiple agencies, and use in permit application			

Objective 5: Effective and Strategic Prioritization

Strategy 1: Reach a common focus among multiple agencies; communicate common priorities and work collaboratively

Actions	Responsible Party	Timeline/Deadline	Comments
1. Develop prioritization guidelines for restoration practitioners, etc	OWEB?	Dec. 2010	
2. Analyze priority overlaps among agencies to identify aligned needs and focus opportunities	All agencies, GNRO coordinate	Dec. 2010	e.g., Ecotrust's "Whole Watershed Restoration Initiative"
3. Use recovery plan Implementation Teams for project prioritization assistance	NOAA / ODFW	2011; ongoing	
4. Use decision support tools to align project development /funding with priority criteria	TFT / OWEB	Dec. 2010	E.g., StreamBank

Objective 6: Restoration Outreach and Education

Strategy 1: Provide training, workshops, and outreach to promote awareness and technical knowledge and provide empowerment.

Actions	Responsible Party	Timeline/Deadline	Comments
1. Identify the practitioner community for outreach/education	OWEB, DSL, Corps	ASAP	Survey existing / past permit applications
2. Identify trainers and workshop providers			OR Network of watershed councils; councils could request training, then take to landowners
3. Conduct workshops and training sessions: regulatory refreshers, technical tools, doable designs, funding opportunities; do standards/design training for contractors	DSL, TFT, OWEB, Corps, NOAA, FWS	2011 and beyond	Hot Tips for Cool Streams; project design/standards; FPBR toolbox; technical resource training; systemic/long-term training needed to improve expertise of practitioners; River RAT workshops; training could lead to bonuses (extra bid points, certification)
4. Design / implement iterative surveys to track progress, refine actions, and conduct outreach; also use annual reporting systems in place	DSL, OWEB	2011	
5. Communicate opportunistically to obtain feedback and identify problems;	All	Ongoing	

bring to "clearing house" table			
6. Update restoration resource guides; develop new guides to facilitate projects	Core Team; ODFW, DSL	ASAP	Removal/Fill guide; aquatic habitat guide; off-channel wetland restoration guide
7. DEQ educate public on water quality reviews	DEQ		DEQ is big player in permit scene
8. Inform users of risk pinch points and the reality of agency timelines; (context specificity needed, as different types of actions have different risk tolerances)			

Objective 7: Clearinghouse and Problem-solving

Strategy 1: Develop forum for open dialog on recurring and episodic regulatory issues

Actions	**Responsible Party**	**Timeline/Deadline**	**Comments**
1. Establish ad hoc steering committee to help guide Strategic and Action plans and joint Core Team/SRP functions	GNRO, Ag landowner, ODA, DSL, Corps, TFT, FWS, NOAA, NRCS, ODFW, OWEB	Ongoing	Established; need to define roles and leadership responsibilities
2. Bring permitting / regulatory issues to forum for dialog, resolution, accountability or understanding; secure facilitation assistance	All agencies, GNRO, Oregon Consensus, TFT		Core Team forum
3. Consider use of other relevant forums to discuss restoration regulation matters			Ex.: Consultative Group on Biol. Div.—water subgroup; USFWS Restoration Review Team

Objective 8: Incentivize Restoration for Landowner

Strategy 1: Create incentives for landowners/practitioners to encourage their interest in and desire for restoration

Actions	**Responsible Party**	**Timeline/Deadline**	**Comments**
1. Assess liability for landowners / practitioners, assess adequacy of current liability coverage, and consider options for reducing liability	TFT (internship report)	ASAP, Ongoing	e.g., DSL's new exemption on voluntary restoration
2. Provide enhanced technical and other assistance to enhance work		Ongoing	Bonneville Environmental Foundation share gains from pilot with local wsc; SB 513 incentives, Farm

			Bill funding / incentives; partnerships
3. Create a facilitated and barrier-free process	All agencies		This Action Plan
4. Identify incentives through practitioners and other entities			Do through surveys; NGO ideas (Ecotrust)
5. Identify other incentives for legislative and policy dialog/action	TFT / INR / Defenders/ TNC-- other entities involved in ongoing dialogue		Include ecosystem service market development