Stream Restoration Partnership

General Areas of Agreement
(Compiled from 4/2008 to 10/2009)

DRAFT

(Or, a quick revisit to key discussions we have shared and commiserated over together☺)

The Project Team members agree with the need to accelerate implementation of the highest priority restoration and conservation actions needed to improve ecological resilience. On private lands (close to 50% of the state land area), "opportunity areas" to accelerate the completion of voluntary, high priority restoration actions in a meaningful way have been identified and include:

- more effective coordination and upfront clarity for permitting for restoration projects;
- use of risk management assessment tools to more efficiently manage the permit application and review process;
- expanded implementation and coordination of electronic permitting and reporting tools; and
- more collaborative use of existing and new web tools to better identify restoration priorities, deliver technical assistance, provide funding and monitor projects

Stream restoration efforts are headed in the right direction. Many groups are working in collaboration on stream restoration with public and private landowners. However, stream restoration work is currently not happening at an appropriate pace and at a scale to restore stream health.

The processes of funding and permitting stream restoration projects can be slow and poorly coordinated. These processes can slow the pace of implementing projects in any number of ways, including:

- restoration project (landowner) coordinators spending excessive time on administrative effort, including grant writing management and reporting,
- reducing the amount of time for landowner outreach and project work,
- creating disincentives for landowner participation (due to perceived frustration with the system and/or less-than-stellar experiences of neighbors with restoration projects), and generally serve as an impediment to restoring streams at a meaningful scale and pace.

Landowner perceptions of a broken system have, and will continue to, impede their participation in restoration work unless something is done to address the perceptions and improve the reality.

A commitment of support for enhanced communication, greater collaboration and transparency of process on the part of both the state and federal government agencies will finally raise the likelihood of success that restoration efforts will outpace the negative impacts to ecosystems and species.

Regarding Technical Assistance and Landowner Coordinators

Riparian area restoration is gaining favor as a new generation of landowners and agricultural producers are getting control of land bordering rivers and streams. It takes time and significant resources to develop relationships with property owners- particularly for larger scale projects.

Local groups have built trust and knowledge and are now implementing projects on private lands that could not otherwise be accomplished.

Operational issues for Landowner Coordinators include:

- Coordinators are generally relying on one anchor funder on a consistent basis. Given that funders require match requirements, this is quite precarious for on-going projects if one funder "goes away".
- It is typical for local coordinators to face cash flow problems due to the system of reimbursement payments from grant makers that can delay project action or advance of as much work as they otherwise could if the cash-flow bottleneck did not exist.

Regarding Permitting

Excessive delays in the implementation of voluntary restoration projects, for whatever reason, can harm overall species recovery and habitat protection efforts. Under certain circumstances, regulatory review of restoration projects can delay project implementation and divert limited project resources, and thus can have an unintended negative impact on the conservation and restoration of species. This can be related to:

- Some projects have a short window of opportunity for implementation due to logistical, economic and seasonal restraints.
- Funding opportunities can come and go quickly.
- Many restoration activities are carried out with limited budget and with fragile coalitions of many partners.
- There are scant resources for extended permit review, which can strain project budgets as well as partner relationships.
- Put another way, It takes a village to do a restoration project -

There is complexity in the permitting and funding of restoration projects by public agencies. Simplifying the system is complicated by Congress and laws passed over time to "streamline and integrate" the regulatory process that have resulted in added regulatory process time (by law) and complexity (through added considerations). Additionally, Congress has identified the protection of historical and cultural resources as a federal concern and subject to consideration when federal permitting is being considered. The co-occurrence of historical and cultural artifacts and sites

with riparian environments is not unexpected. Humans and other animals need water and have forever, and will forever, congregate near water.

The fundamental problem with the permitting process is the inherent complexity of the programs as well as the duplication of programs. From the federal perspective, few states regulate stream alteration, therefore it is important to have a federal program. From Oregon's perspective, the institutional hoops necessary to assume federal authority have proven too high to surmount. Because the permitting requirements are based in state and federal law, fundamental change must approach those foundations (federal exemptions for restoration activities, federal deferral to state authority over restoration activity, elimination of state law, etc.). Short of legislative changes and time, we must work better and more creatively together to implement and accelerate the pace of restoration projects. This means there MUST be some level of shared agreement among and between the state and federal natural resource agencies on the expected outcome or benefit from a *Partnership* effort.

Another factor that affects "streamlining" is the lack of clarity of what is regulated. Culvert replacements are a very interesting case in point. The "repair or maintenance of currently serviceable farm or forest roads are not subject to Section 404 of the Clean Water Act. This has been interpreted in a very narrow sense. It creates the absurd situation where a farmer or forester may replace a culvert that blocks fish passage without a permit form the Corps but will need a permit if they wish to replace the culvert with a larger culvert that will pass fish and flood waters. DSL has similar but different exemptions. The result of these uncertainties is caution on the part of regulators and a request for a permit application for all replacements.

There have been many efforts to streamline the regulatory process in recent years. It has been clear that each effort was limited in time, extent and short of the desired outcomes to accelerate restoration.

Landowner coordinators and other "users" of the regulatory process desire certainty in the data needs to successfully complete a project permit application on the first try, and greater certainty in the expected "turnaround", or processing time.

"Work-arounds" of state and federal requirements tend to result in sub-optimal restoration projects.

The development of and availability to "tier to" programmatic permits for restoration projects has been a success for many "users" of the regulatory process.

Regulatory resources are finite, and regulatory oversight of restoration projects can be made more efficient and proportional to the relative potential for adverse impacts associated with individual projects.

Processes used now to review projects are not always adding additional benefit to the actual project results and outcomes on the ground. Some feel, or have the perception, that Oregon "is a decidedly difficult place" to do aquatic restoration projects.

Greater coordination and collaboration is needed for prioritizing the use of resources, within in statutory requirements, to maximize positive conservation outcomes. Regulatory and funding

resources are finite and should be targeted to where they will provide the greatest regulatory and ecosystem benefit.

The development of risk assessment tools for use in the permitting process is a key opportunity area. Regulatory agencies can apply more of their regulatory resources to those projects that may cause the greatest harm and, conversely, apply relatively fewer regulatory resources to projects that will likely do little harm and some good. Finite regulatory resources are most efficiently applied to those projects posing the greatest potential adverse impact. Put another way, less use of scarce staff resource directed to those projects with a high likelihood of a "net conservation benefit" outcome will encourage and expedite voluntary restoration actions whose sole or primary purpose is to increase conservation.

Although still an imperfect science, implementation of most restoration project in Oregon provide an overall "net conservation benefit" to listed species and their habitats even where installation of such projects may have short-term adverse impacts.

The most contentious issue associated with ecosystem restoration funding is how to prioritize and sequence funding and link projects to obtain meaningful outcomes. There is an increasing tension between working in priority areas and working with willing landowners.

More field verification of permitted project outcomes and use of adaptive management feedback loops for regulatory process management and project design prioritization purposes is an opportunity area.

Regarding Data and Use of Technology

There are many productive ways to better take advantage of technology and collaboration to "automate" both permitting, project prioritization and granting.

Although improving, the limitations to Oregon's statewide GIS data coverages are critical. There are significant data gaps in such fundamental information as: location of culverts, location of culverts that are fish passage barriers, location of other legacy fish passage barriers, fish habitat conditions, stream location, valley width, stream confinedness, location of wetlands, fish distribution, etc.