



# Oregon

John A. Kitzhaber, MD, Governor

**Department of State Lands**

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

[www.oregonstatelands.us](http://www.oregonstatelands.us)

**State Land Board**

**TESTIMONY OF  
MARY ABRAMS, DIRECTOR  
DEPARTMENT OF STATE LANDS  
On House Bill 2032 A-Engrossed  
Before the Senate Environment  
and Natural Resources Committee  
May 8, 2013**

John A. Kitzhaber, MD

Governor

Kate Brown

Secretary of State

Ted Wheeler

State Treasurer

Thank you for the opportunity to testify today in support of House Bill 2032 A-Engrossed, which allows regional pricing for deposits to the Oregon Removal-Fill Mitigation Fund.

The Oregon Removal-Fill Mitigation Fund is a statutory account described in ORS 196.625 to 196.665. Mitigation credits are sold to permittees and the funds are deposited into this account to mitigate for unavoidable adverse effects on waters of this state. DSL allows permittees to use this form of mitigation if there are no appropriate credits available from an established mitigation bank. This provides significant time and cost savings for permittees because individual project mitigation can be extremely costly. The funds are used by DSL to construct mitigation sites and compensate for lost functions and values. By pooling mitigation funds for multiple projects and contracting out the mitigation work, DSL is able to achieve economies of scale and improved mitigation success relative to the alternative of requiring multiple, individual mitigation sites.

Current statute sets the cost of a credit at “the average cost of credits available from all active mitigation banks in the state.” This is problematic for several reasons:

- It doesn't consider regional differences in such things as land costs, which affect the cost of constructing the mitigation sites. There is a wide price range for wetland credits in the state (\$48,000 to \$225,000 per acre in 2012), generally related to bank location. The average is \$74,000 per acre. Using a straight average puts too low of a price on the cost of mitigation in higher cost areas such as the Portland-Metro Area and too high of a price in low density areas such as Eastern Oregon.
- Current statute does not allow DSL to charge different amounts based on the type of resource mitigation. Mitigation costs for streams and wetlands are vastly different due to the different strategies associated with replacement.

HB 2032 accomplishes the following:

- Establishes that costs and expenses for mitigation projects may include land acquisition, project design and engineering; construction, planting, monitoring, maintenance, long-term protection, long-term management, administration and other associated costs.
- Allows these costs and expenses to be reflected in payments to the Oregon Removal-Fill Mitigation Fund.
- When a mitigation project and project cost have not been identified at the time of payment, allows the payment to be based on regional estimates of costs and expenses set by the Department.
- Directs the Department to report annually to the legislative assembly and State Land Board regarding the costs of mitigation and the Department's efforts to reduce those costs.

DSL will perform rulemaking including public review and public hearings to establish the method to calculate regional pricing. A fee proposal will consider:

- Typical restoration cost per unit in Oregon.
- Price adjustments by county and/or region to reflect differences in land cost and costs of construction.
- Administrative costs for DSL to run the In-Lieu Fee program.

The purpose of HB 2032 is to reduce the risk that permittees will be over or under-charged for mitigation credits and to help ensure that DSL has adequate funding to replace lost functions and values in the geographical regions in which the impacts occur.

Concerns were raised in the House regarding the high cost of mitigation. The Department worked with Representative Cliff Bentz to address those concerns. These efforts resulted in the reporting requirements in Section 1 (3).

This legislation would not result in a fiscal impact to the department. The department will initiate amendments to OAR 141-085 if this legislation is approved. The rulemaking and subsequent implementation of those rules can be accomplished through existing department staff and resources.

Thank you for the opportunity to testify today. I would be happy to answer any questions the committee may have.