



# Oregon

Kate Brown, Governor

## Department of State Lands

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**Testimony of  
Bill Ryan, Assistant Director  
Aquatic Resource Management Program  
Department of State Lands  
on  
House Bill 3217  
House Committee on Rural Communities, Land Use and Water  
March 31, 2015**

### State Land Board

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Secretary of State

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The Department of State Lands appreciates the opportunity to provide information regarding House Bill 3217, which would require the agency to adopt a pilot program for providing a general authorization for voluntary stream restoration and beaver recovery through construction of artificial beaver dams.

The concept of reintroducing beaver to restore historical hydrology and riparian vegetation is something that the Department believes warrants further investigation. As the agency that regulates and permits removal and fill in waters of the state, we are continually looking for ways to support voluntary restoration efforts that will improve the state's wetlands and waterways.

We believe it's important to provide some background information on current removal-fill permits, as well as information on how this bill would be carried out, including fiscal and staff impacts.

The Department has authority to create both General Authorizations (GAs) and General Permits (GPs) for removal-fill activities with minimal, predictable effects.

GAs are an expedited process for specific types of removal-fill activities that have minimal adverse effects on wetlands and waterways both individually and cumulatively. Examples include waterway habitat restoration, waterway bank stabilization, wetland habitat restoration and routine transportation activities. GAs are notice based and do not require public review for individual projects.

GPs authorize a group of activities that are substantially similar in nature, recurring or ongoing, and have predictable effects and outcomes. They can have a greater level of uncertainty regarding the level of environmental impact relative to activities authorized by a GA and therefore have a greater level of project scrutiny. There currently are several approved GPs including GPs issued to the Bureau of Land Management and U.S. Forest Service for certain waterway restoration activities on federal lands.

None of the existing GAs or GPs allow for damming or completely spanning the waterway, so modifying an existing permit mechanism or creating a new one would be required to allow construction of artificial beaver dams (ABDs) without obtaining an individual permit.

The existing GAs and GPs were established through rulemaking that included technical and public input through advisory committees and public review and comment processes. These processes allow input from state agencies, industry groups, conservation organizations and the public to ensure that permits developed are in compliance with state water quality standards, fish passage requirements, water rights laws, etc. Development of a GA or GP for constructing artificial beaver dams would greatly benefit from this process.

HB 3217 does not specify what type of artificial beaver dam construction technology would be used in the pilot project. In habitat restoration work there is generally a preference to use materials and forms that reflect naturally occurring structures in a given waterway. There are examples of low risk, bioengineering technologies for creating ABDs which we are confident we could include in a GA or GP under current statute. Large-scale techniques or those not mimicking naturally occurring structures need to be further studied for the purposes of implementing a GA or GP.

The Department does have questions about specific aspects of HB 3217:

- Section 2 (1) (e) defines “qualifying stream” and includes thresholds for flow. The Department is interested in origin and explanation of that threshold.
- The Department would also be seeking advice from the Oregon Department of Fish and Wildlife regarding the fish passage exemption provision of Section 2 (3) (a) to ensure native fish populations are protected.

Finally, implementing a pilot project would require substantial Department of State Lands’ staff time, and potentially significant funds if the Department deemed it necessary to contract with ABD or other restoration experts to test the technology over time. Rulemaking efforts also will take staff time and funding for meeting coordination, travel and administrative oversight that might tax existing agency resources.