

ANALYSIS

Item 36: Department of State Lands Federal Grant Award Limitation

Analyst: Matt Stayner

Request: Increase Federal Funds expenditure limitation for the Department of State Lands by \$236,833 for the expenditure of federal grant funds awarded from the U.S. Environmental Protection Agency in the previous two biennia, for wetlands programs.

Analysis: The Department of State Lands (DSL) applied for and was awarded four grants during the past two biennia from the U.S. Environmental Protection Agency. Although Federal Funds expenditure limitation had been established for DSL in the prior biennium, the agency was unable to complete the grant work prior to the end of the biennium. At the time of the current biennium budget development, it was acknowledged that a portion of the funding and the associated expenditure limitation would need to be carried forward to the 2021-23 biennium to allow DSL to complete the grant work and expend the remaining funding provided by these grants.

Due to several factors, including the COVID pandemic and staffing availability, the following grants and their remaining federal funds were outstanding at the end of the 2019-21 biennium:

Grant Title	Purpose	Remaining Funding at end of 2019-21 biennium
Aquatic Resources Mitigation Program	Creation of framework to assess mitigation program effectiveness	\$41,729
Wetland Effectiveness	Improve online tools and reporting	\$218,303
Endangered Species Act Compliance	Integrate ESA compliance information in the removal-fill program	\$83,737
Mitigation Solutions	Increase mitigation options for removal-fill projects	\$43,063
Total 2021-23 Expenditure Limitation Need		\$386,833
2021-23 FF Expenditure Limitation Provided		<u>-\$150,000</u>
2021-23 Remaining Expenditure Limitation Need		<u>\$236,833</u>

Grant funded work has continued on these projects in the first year of the current biennium using expenditure limitation that was provided as part of the agency's budget. However, the approved limitation is insufficient to support the amount of federally funded expenditures that will be expended

during the 2021-23 biennium. The requested increase in Federal Funds expenditure limitation will allow the agency to complete the grant funded work and to properly book the associated expenditures through the end of the biennium.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board increase Federal Funds expenditure limitation for the Department of State Lands by \$236,833 for the expenditure of federal grant funds awarded from the U.S. Environmental Protection Agency in the previous two biennia, for wetlands programs.

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Request: Increase Federal Funds expenditure limitation by \$236,833 for four federally awarded Environmental Protection Agency grants.

Recommendation: Approve the request.

Discussion: The Department of State Lands (DSL) received one Environmental Protection Agency (EPA) grant during the 2017-19 biennium and three EPA grants during the 2019-21 biennium. Due to the COVID-19 pandemic, DSL requested an extension from the EPA on the 2017-19 grant award, which was approved. In the Agency's 2021-23 Legislative Adopted Budget, Federal Funds (FF) expenditure limitation of \$150,000 was carried forward to assist with implementing the four grants listed below:

Grant Award Date	EPA Grant Title	Limitation needed to fully utilize the EPA grants
October 1, 2017	Aquatic Resource Mitigation Program	\$41,730
April 1, 2020	EPA, Mitigation Solutions Project	\$43,063
June 1, 2020	Wetland Effectiveness Project	\$218,303
September 30, 2020	Endangered Species for Oregon Department of Fish and Wildlife	\$83,737
	Total FF unspent by June 30, 2021	\$386,833
	Less \$150,000 carryforward from 2021-23 LAB	-150,000
	Total FF limitation requested	\$236,833

The Agency utilized their budgeted Federal Funds to complete the Aquatic Resource Mitigation Program grant before the December 31, 2021 deadline. After further analysis, DSL determined the \$150,000 Federal Funds carried forward was not enough to fully implement the remaining three grants. This request for a Federal Funds expenditure limitation increase of \$236,833 will support the remaining three EPA grants listed above. The following bullets describe what was accomplished for the 2017-19 EPA grant award and how the additional Federal Funds expenditure limitation will be utilized in completing the remaining three EPA grants.

- *Aquatic Resource Mitigation Program*—this grant provided a framework for DSL to evaluate whether there will be unavoidable impacts to wetlands and waters being replaced through the Removal-Fill program at approved compensatory mitigation sites.
- *Mitigation Solutions Project*—will provide additional resources to promote the development of mitigation banks and in-lieu fee programs in Oregon, to help meet market demand while encouraging a watershed priority approach to better achieve statewide and regional ecological priorities.
- *Endangered Species Project*—will allow the integration of the Federal Endangered Species Act Compliance Program into the Removal-Fill Program and update the Oregon Department of Fish and Wildlife Fish Habitat distribution database used to designate essential salmonid habitat waters.

- *Wetland Effectiveness Project*—will improve customer service by providing online access for training materials, tools, and information pertaining to wetland and stream assessment for the Removal-Fill permits and for siting compensatory mitigation.

Legal Reference: Increase Federal Funds expenditure limitation established by chapter 607, section 3(2), Oregon Laws 2021, for the Department of State Lands, Common School Fund programs by \$236,833 for the 2021-2023 biennium.



Oregon

Kate Brown, Governor

Department of State Lands

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April 7, 2022

Senator Peter Courtney, Co-Chair
Representative Dan Rayfield, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

State Land Board

Kate Brown
Governor

Shemia Fagan
Secretary of State

Dear Co-Chairs:

Tobias Read
State Treasurer

Nature of the Request

The Department of State Lands (Department) respectfully requests an increase in Federal Funds expenditure limitation of **\$236,833**. The Department applied for and received grant fundings during the 19-21 biennium but were unable to expend \$386,833. During the 21-23 budget request, the Department requested a carryforward of \$150,000 in Federal Funds. This request will bring forward the remaining amount and allow the Department to fully expend the Federal awarded amounts.

Agency Action

The Department has four grant awards with grant balances that were carried forward into the 21-23 biennium based on the grant period. The Department experienced delays for some grant tasks, resulting in the additional limitation requested, including delays associated with developing a framework to evaluate its aquatic resource mitigation program's performance, developing web-based trainings for its wetland and stream functional assessment methods, and pursuing a state-assumed §404 program under the Clean Water Act. Delays were primarily due to Covid-19, including office closures, delays in hiring new positions, and restrictions on gathering for field work and trainings.

The Department took actions to revise component outputs and component start and end dates; moved funds between components; and in one case, redirected Federal Funds through an Interagency Agreement to the Oregon Department of Fish and Wildlife (ODFW).

Department deliverables from the additional limitation will include:

- A white paper regarding the Department's efforts to develop a mitigation program effectiveness monitoring framework.

- An updated study report and GIS data on Wetland and Land Use Change in the Willamette Valley between 2005 and 2020. This study began in 1982 before Oregon adopted clear wetland regulations and provides the only statistically valid information available about changes in wetland acreage by wetland type, and the land use trends associated with wetland gains, losses and change in the Willamette Valley.
- Updates to the ODFW Fish Habitat Distribution Database for anadromous salmonid habitat, used to designate essential salmonid habitat (ESH) waters. ESH protects the streams where salmonids lay eggs and where young fish grow before traveling to the ocean. ODFW staff also provides support for reviewing requests from the public and Tribes to change an ESH designation.
- A report identifying areas of higher need for compensatory mitigation including watershed priorities, updating templates for in-lieu fee (ILF) and mitigation bank projects, and modifying the Department's ILF instrument to incorporate changes to state rules for compensatory mitigation and to incorporate a watershed priority approach strategy.

Action Requested

Approve an increase in Federal Funds expenditure limitation of **\$236,833** for the 2021-23 biennium.

Legislation Affected

Chapter 607, Section 3 (2), Oregon Laws 2021

Thank you for your interest and assistance. If you have any questions, please contact Jean Straight at (503) 986-5227.

Sincerely,



Vicki L. Walker
Director

cc: Jason Miner, Office of the Governor
Molly Woon, Office of the Secretary of State
Ryan Mann, State Treasury
Michelle Lisper, DAS Chief Financial Office
Zane Potter, Legislative Fiscal Office
Jean Straight, Deputy Director, DSL