

ANALYSIS

Item 71: Oregon Department of Fish and Wildlife PFA Mitigation Subaccount

Analyst: April McDonald

Request: Increase Other Funds expenditure limitation by \$2,000,000 to expend funds from the Private Forest Accord Mitigation Subaccount established in SB 1501 during the 2022 legislative session.

Analysis: The Private Forest Accord (PFA) was a landmark agreement reached in 2021 between conservation and forest industry stakeholders to allow forest practices to proceed with regulatory certainty while better protecting natural resources. The PFA Mitigation Subaccount was created specifically to support conservation actions that offset the impacts of forest practices on select aquatic species. SB 1501 (2022) provided an initial investment of \$10 million General Fund for the newly established subaccount and identified the Oregon Department of Fish and Wildlife (ODFW) as the agency responsible for establishing a grantmaking program and administering the fund. However, SB 1501 did not provide the Department with corresponding expenditure limitation. It was anticipated ODFW would return to the Legislature with a request once the grant program was sufficiently established and an initial grant solicitation was scheduled.

ODFW requests an increase of \$2 million in Other Funds expenditure limitation to expend revenue deposited in the PFA Mitigation Subaccount for the program's first grant solicitation, anticipated in the winter and spring of 2023. Administrative costs are allowable under SB 1501, but the \$2 million will predominantly go toward habitat conservation projects designed to benefit native fish and amphibians. Grant-funded projects will have a direct tie to the Oregon Plan for Salmon and Watersheds, the Oregon Conservation Strategy, Oregon Watershed Council strategic action plans, and state and federal recovery plans for listed species. Eligible projects will include fish passage, restoration of streams and beaver-modified habitats, and protection of riparian vegetation, lands, and stream flows. The Department's 2023-25 Agency Request Budget includes a policy option package requesting additional expenditure limitation for the agency to continue supporting PFA grant activities from the PFA Mitigation Subaccount on an ongoing basis.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board increase Other Funds expenditure limitation by \$2,000,000 for the Oregon Department of Fish and Wildlife to expend funds from the Private Forest Accord Mitigation Subaccount for eligible purposes.

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Department of Fish and Wildlife
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Request: Increase Other Funds expenditure limitation by \$2.0 million for the Private Forest Accord Mitigation subaccount established by ORS 496.252.

Recommendation: Approve the request.

Discussion: The Oregon Forest Practices Act, which passed in 1971, set the standards for all commercial activities involving the establishment, management, or harvesting of trees on Oregon's forestlands. In 2022, the Oregon State Legislature passed Senate Bill 1501 and House Bill 4055, collectively known as the Private Forest Accord (Accord), which provided updates to the Oregon Forest Practices Act. Within the Accord, a Mitigation Subaccount of the Oregon Conservation and Recreation Fund was established to mitigate the impacts of forest practices through prescribed methods of instream and riparian conservation and restoration activities. The Accord provided the Mitigation Subaccount a deposit of \$10 million, and deposits in future tax years were anticipated. Other Funds expenditure limitation to utilize the Mitigation Subaccount was not provided in the Accord.

The Oregon Department of Fish and Wildlife (ODFW) has proposed to utilize \$2.0 million from the Oregon Conservation and Recreation Fund Mitigation Subaccount to solicit grants in the winter and spring of 2023 for forest practice mitigation activities. ODFW will also submit a policy package in its Agency Requested Budget for ongoing expenditure limitation for the Mitigation Subaccount.

Legal Reference: Increase Other Funds expenditure limitation established by chapter 679, section 2(7), Oregon Laws 2022, for the Department of Fish and Wildlife, Habitat Division, by \$2,000,000 for the 2021-23 biennium.



Oregon

Kate Brown, Governor

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August 19, 2022

The Honorable Senator Peter Courtney, President of the Senate
The Honorable Representative Dan Rayfield, Speaker of the House
900 Court Street NE
H-178 State Capitol
Salem, OR 97301



Dear Senator Courtney and Representative Rayfield:

Nature of the Request

The Oregon Department of Fish and Wildlife (ODFW) requests \$2,000,000 other funds expenditure limitation for the agency's 2021-23 biennium budget to expend funds from the Private Forest Accord Mitigation subaccount established in the 2022 Legislative Session.

Background

The Private Forest Accord (PFA) Mitigation subaccount was established in the 2022 Legislative Session as part of Senate Bills (SB) 1501 and 1502, and House Bill (HB) 4055. The PFA was a landmark agreement reached in 2021 between conservation and forest industry stakeholders to allow forest practices to proceed with regulatory certainty while better protecting natural resources. Part of the PFA package included the establishment of a mitigation subaccount under the Oregon Conservation and Recreation Fund (OCRF) specifically to support conservation actions that offset the impacts of forest practices on aquatic species covered by a federal Incidental Take Permit and its associated Habitat Conservation Plan. SB 1501 outlined the establishment of the fund and a 12-person advisory committee. ODFW was identified as the lead agency in administering the fund, establishing a grantmaking program, and staffing the advisory committee.

Per SB 1501 the PFA Mitigation subaccount included an initial investment of \$10 million in General Fund. Beginning with the 2023 tax year, HB 4055 provides an annual deposit of \$2.5 million in harvest tax revenue, becoming \$5 million after the Incidental Take Permit is finalized. SB 1501 provided the initial \$10 million deposit into the PFA Mitigation subaccount but did not provide ODFW with additional expenditure limitation needed to expend these funds.

Agency Action

ODFW requests \$2 million other funds expenditure limitation for an initial grant solicitation in winter/spring 2023. Funds will go towards grants and the administrative work associated with the establishment of the grant program.

ODFW is in the process of recruiting two staff positions to support the PFA grant program (position authority and funding established in the 2022 legislative session) and recruiting potential members for the advisory committee. Once established, ODFW staff will work with the advisory committee to draft and review administrative rules for the PFA grant program consistent with the purpose and eligible projects set forth in SB 1501.

Administrative costs are allowable per SB 1501, however, most of the \$2 million ODFW plans to spend during the 2021-23 biennium will go toward on-the-ground habitat conservation projects to benefit native fish and amphibians. Grant-funded projects will have a direct tie to the Oregon Plan for Salmon and Watersheds, the Oregon Conservation Strategy, Oregon Watershed Council strategic action plans, as well as state and federal recovery plans for listed species. Eligible projects will include (but are not limited to) fish passage, restoration of streams and beaver-modified habitats, and protection of riparian vegetation, lands, and stream flows. The projects will be designed to offset potential impacts of forest practices occurring on private forestlands, allowing timber operations to proceed under the new Forest Practices Act and with the regulatory certainty afforded by a federal Incidental Take Permit.

After completion of this initial solicitation, ODFW staff and the PFA Advisory Committee will work to finalize the grant program. ODFW's 2023-25 Agency Request Budget includes a policy option package seeking additional expenditure limitation for the agency to spend from the PFA Mitigation subaccount on an ongoing basis.

Action Requested

ODFW requests \$2,000,000 other funds expenditure limitation for the agency's 2021-23 biennium budget to expend funds from the Private Forest Accord Mitigation subaccount.

Legislation Affected

Oregon Laws 2021, Chapter 679, Section 2(7) Habitat Division

Sincerely,



Curtis E. Melcher
Director