

June 2-3, 2009 OWEB Board Meeting Executive Director Update #C1: Mitigation Policy Guidance

Background

OWEB has adopted administrative rules guiding eligibility and preferences for restoration grants (OAR 695 Division 10). OAR 695-010-0040 specifically describes the following as ineligible for OWEB funding by the Board:

(3) A watershed improvement project constructed solely to comply with a state or federal agency enforcement order, legal judgment or mitigation requirement.

When the administrative rule was adopted it was done to prevent the use of OWEB funds (public funds) to satisfy a requirement that an individual incurred from an action that adversely impacted the environment. Subsequent to rule adoption, questions have been raised over the potential use of Measure 66 funds to fund a mitigation bank from which “credits” would be sold to allow others to alter wetlands.

Staff have also encountered significant and increasing opportunities to leverage OWEB funding with some other types of funding that could be construed as being required for mitigation purposes or to be in compliance with a state or federal legal judgment. Over the last year staff have worked with other regulatory and funding agencies to explore consistent policy concerning the use of conservation funds in relation to regulatory mitigation requirements. The Board discussed draft policy guidance language in January and March of 2009.

Mitigation Policy Guidance

Following the discussion at the March 2009 Board meeting, staff developed final language for the policy guidance. The document was signed by the Executive Director on April 27, 2009. The issue of ecosystem service credits was not resolved and was left off the guidance document as discussed in March. The adopted language is attached. (Attachment A)

Staff Contact

If you have questions or need additional information, please contact Ken Bierly, at ken.bierly@state.or.us or 503-986-0182.

Attachment

A. Mitigation Policy Guidance