

Department of State Lands
775 Summer Street, Suite 100
Salem, OR 97301-1279
☎ 503-986-5200

Permit No.:	<u>00000-XX</u>
Permit Type:	<u>Removal/Fill</u>
Waterway:	<u>Wetland/Waterway</u>
County:	
Expiration Date:	<u>January 1, 1999</u>

NAME OF PERMIT HOLDER

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another. For new linear facility projects, the removal-fill activity cannot occur until the permit holder obtains either the landowner's consent, a right, title or interest with respect to the property that is sufficient to undertake the removal or fill activity, or a court order or judgment authorizing the use of the property.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390, and related administrative rules.
8. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 to 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-986-5200.

Lori Warner-Dickason, Northern Region Manager
Wetlands & Waterways Conservation Div.
Oregon Department of State Lands

Authorized Signature

January 1, 1999
Date Issued

ATTACHMENT A

Permit Holder: Name of Permit Holder

Project Name:

Special Conditions for Removal/Fill Permit No. 00000-XX

READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.

The project site may be inspected by the Department of State Lands (DSL) as part of our monitoring program. DSL has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By signature on the application, INDIVIDUAL NAME is acting as the representative of PERMITTEE (Business Entity). By proceeding under this permit, PERMITTEE (Business Entity) agrees to comply with and fulfill all terms and conditions of this permit, unless the permit is officially transferred to another party as approved by DSL.
2. **Authorization to Conduct Removal and/or Fill:** This permit authorizes the placement of up to # cubic yards and removal of up to # cubic yards of material in T#N/S R#E/W Section #QQ, Tax Lot #, and T#N/S, R#E/W, Section #QQ, Tax Lot #, Wetland/Waterway, County Name County, as described in the attached permit application, map and drawings, received January 1, 2999. In the event information in the application conflicts with these permit conditions, the permit conditions prevail.
3. **Work Period in Jurisdictional Areas:** Fill or removal activities below the ordinary high water elevation of Name of Waterway shall be conducted between Beginning Month & Day and Ending Month & Day, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL.
4. **Authorization to Conduct Compensatory Mitigation:** This permit also authorizes removal and fill activities necessary to complete the required compensatory mitigation.
5. **Changes to the Project or Inconsistent Requirements from Other Permits:** It is the permittee's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. Any changes made in project design, implementation and/or operating conditions to comply with conditions imposed by other permits must be approved by DSL prior to implementation.
6. **DSL May Halt or Modify:** DSL retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.
7. **DSL May Modify Conditions Upon Permit Renewal:** DSL retains the authority to modify conditions upon renewal, as appropriate, pursuant to the applicable rules in effect at the time of the request for renewal or to protect waters of this state.

Pre-Construction

8. **Local Government Approval Required Before Beginning Work:** Issuance of this permit is contingent upon acquisition of a Type of Permit permit from the City of XXXX, XXXX County.
9. **Stormwater Management Approval Required Before Beginning Work:** Issuance of the permit is contingent upon acquisition of a National Pollution Discharge Elimination System (NPDES) permit from the Oregon Department of Environmental Quality.
10. **Authorization to Use Property.** For linear facility projects, the removal-fill activity cannot occur until the person obtains:
 - a. The landowner's consent;
 - b. A right, title or interest with respect to the property, that is sufficient to undertake the removal or fill activity; or
 - c. A court order or judgment authorizing the use of the property
11. **Pre-construction Resource Area Flagging:** Before any site grading, the surveyed boundaries of the avoided wetlands shall be surrounded by bright orange construction fencing, which shall be maintained during construction of the project. There shall be no heavy equipment within fenced areas, except during mitigation construction.

{Insert the following section if avoided wetlands must be protected or mitigation includes preservation; delete, if not, and renumber}

12. **Deed Restriction Recording:** Avoided wetlands have been protected in perpetuity by a Declaration of Covenants and Restrictions and Access Easement {or} Conservation Easement (Protection Instrument) on the property. The protection instrument must be approved and signed by the Department prior to recording with Name of County County. A copy of the signed and recorded instrument has been received prior to the issuance of this permit.

General Construction Conditions

13. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.
14. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) shall be installed prior to construction and maintained during and after construction as appropriate, to prevent erosion and minimize movement of soil into waters of this state.
 - a. All exposed soils shall be stabilized during and after construction in order to prevent erosion and sedimentation.
 - b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used to prevent movement of soil into waterways and wetlands.

- c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
- d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian and wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.
- e. Where vegetation is used for erosion control on slopes steeper than 2:1, a tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
- f. Dredged or other excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways and wetlands.
- g. Erosion control measures shall be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized.
- h. All erosion control structures shall be removed when the project is complete and soils are stabilized and vegetated.

15. Hazardous, Toxic, and Waste Material Handling: Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, wood treated with leachable preservatives or other deleterious waste materials shall not be allowed to enter waters of this state. Machinery refueling is to occur at least 150 feet from waters of this state and confined in a designated area to prevent spillage into waters of this state. Barges shall have containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.

16. Federally Listed Endangered or Threatened Species: When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously unknown listed species are encountered during construction, all construction activity shall immediately cease and the permit holder must contact DSL.

17. Archaeological Resources: If any archaeological resources and/or artifacts are encountered during construction, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0674).

18. Hazards to Recreation, Navigation or Fishing: The activity shall be timed so as not to interfere with or create a hazard to recreational or commercial navigation or fishing.

19. Construction Corridor: There shall be no removal of vegetation or heavy equipment operating or traversing outside the designated construction corridor or footprint (Figure Number/Letter).

20. **Work Area Isolation:** The work area shall be isolated from the water during construction according to the Work Area Isolation Plan contained in the application. All structures and materials used to isolate the work area shall be removed immediately following construction and water flow returned to pre-construction conditions.
21. **Stream Diversion Prohibited:** The stream shall not be diverted from the natural bed.
22. **Trenching in Wetlands:** During trenching or excavation, the top layer of soil shall be separated from the rest of the excavated material and put back on top when the trench or pit is back-filled. If the native underlying soils are not used as bedding material, and a coarser, non-native soil or other material is used, preventative measures such as clay or concrete plugs shall be used so that underground hydraulic piping does not dewater the site and adjacent wetlands.
23. **Temporary Ground Disturbances:** All temporarily disturbed areas shall be returned to original ground contours at project completion, as proposed in the Site Restoration Plan in the application.
24. **Operation of Equipment in the Water:** {Select one of following:
Work must be conducted from top of bank. Heavy equipment may not be positioned on or traverse areas below ordinary high water of highest measured tide at any time.

Heavy equipment may be positioned on or traverse the area below ordinary high water or highest measured tide only when the area is free of flowing or standing water.

Heavy equipment may be positioned below ordinary high water or highest measured tide if the area is isolated from the waterway, as shown in Figure X of the application.

To delete this highlight, select "save" and unprotect the document. Delete highlighted area, select "save" and re-protect document.}
25. **Fish Passage Required:** The project shall meet Oregon Department of Fish and Wildlife requirements for fish passage.
26. **Riprap Placement Methods:** Riprap/rock shall be placed under the following conditions:
- Only clean, erosion resistant rock from an upland source shall be used as riprap. No broken concrete or asphalt shall be used.
 - Riprap rock shall be placed in a manner that does not increase the upland surface area.
 - Riprap shall be placed in a way as to minimize impacts to the active stream channel.
 - Gravel or filter fabric should be placed behind the riprap rock, including the toe trench rock, as a filter blanket.
 - All riprap rock shall be placed, not dumped, from above the bank line.
27. **Planting in Riprap Required:** Riprap shall be placed in a manner that allows for woody vegetation establishment.
28. **Channel Relocation:** The new channel shall be constructed under these conditions:

- a. There shall be no operation of equipment in the active flowing stream except to connect the newly dug channel in to the existing stream.
- b. The new channel shall be completely constructed and stabilized before diverting the stream flow.
- c. The old channel shall be permanently blocked with impervious material protected by suitable bank protection.
- d. Spoils from the excavation of the new channel shall be stockpiled, and after the diversion has been accomplished, the material may be used to fill the abandoned channel.

{Delete any of the following sections that do not apply; renumber if necessary. To delete this highlight, select "save" and unprotect the document. Delete highlighted area, select "save" and re-protect document.}

Mitigation Conditions

Mitigation For Temporary Impacts

29. **Site Restoration Required for Temporary Wetland Impacts:** Site restoration for temporary impacts to # of acres acres of wetland shall be conducted according to the rehabilitation plan included with the application. Failure to implement the rehabilitation plan may result in additional compensatory mitigation.
30. **Pre-construction Elevations Must Be Restored Within the Same Construction Season:** Construction activities within areas identified as temporary impact shall not exceed two construction seasons and rectification of temporary impacts must be completed within 24 months of the initiation of impacts. However, if the temporary impact only requires one construction season, re-establishment of pre-construction contours must be completed within that same construction season, before the onset of fall rains.
31. **Woody Vegetation Planting Required:** Planting of native woody vegetation shall be completed before the next growing season after re-establishment of the pre-construction contours.

{Insert Post-construction Report Requirement. (as-built optional)}

{Insert Annual Monitoring Report Requirement. (Include performance standards: Use the routine performance standards from the RFG, abbreviated as needed.)}

{AND/OR}

Bank Credits, PIL or ILF

32. **Mitigation Bank Credit Purchase:** Mitigation for the unavoidable loss of # of acres acres of HGM class, Cowardin class wetland has been accomplished via purchase of 0 credits from the Wetland Mitigation Bank, per the proof of purchase.

{AND/OR}

33. Payment-in-lieu Mitigation: Wetland mitigation for the unavoidable loss of # of acres acres of HGM class Cowardin class wetland has been accomplished via payment to the Department's Removal-Fill Mitigation Fund in the amount of \$\$0.00. Once the permitted fill has commenced, the payment is non-refundable.

{OR (Delete section that doesn't apply.)}

34. In-lieu fee Mitigation: Wetland mitigation for the unavoidable loss of # of acres acres of HGM class Cowardin class wetland has been accomplished via payment to the Department's Removal-Fill Mitigation Fund in the amount of \$0.00. Once the permitted fill has commenced, the payment is non-refundable.

{AND/OR}

Compensatory Wetland Mitigation

The following conditions apply to the compensatory wetland mitigation actions proposed in the application Mitigation Plan dated January 1, 2999.

35. Personal Guarantee: On behalf of permittee, [name(s)] has provided a joint and several personal guarantee to ensure compliance with the mitigation obligation associated with this permit.

36. Notice of Business Entity Changes Required: Where the permittee is a business entity, permittee agrees to make all reasonable efforts to maintain the business entity in active status until all mitigation obligations have been satisfied. The permittee will notify the Department 60 days prior to dissolution, bankruptcy, or changes in the shareholders or stockholders, limited partners, members, trustees, current beneficiaries or other principals of the business.

37. Acreage and Type of Compensatory Mitigation: Mitigation shall be conducted according to the acreages and methods described in the table below.

Acres	Cowardin/HGM Class	Method
Authorized Impacts		
# of acres	estuarine aquatic bed depressional/alkaline	
# of acres	estuarine aquatic bed depressional/alkaline	
Required Mitigation		
# of acres	estuarine aquatic bed depressional/alkaline	creation
# of acres	estuarine aquatic bed depressional/alkaline	creation
	Advance Mitigation {delete if does not apply}	
# of acres	estuarine aquatic bed depressional/alkaline	creation
# of acres	estuarine aquatic bed depressional/alkaline	creation

38. Mitigation Site Location: Mitigation shall be conducted on-site. The center-point of the mitigation site is 0.00 degrees Latitude, 0.00 degrees Longitude. The current legal description is Township #N/S, Range #E/W, Section #QQ, Tax Lot 00000 as shown on Figure #Figure # of the mitigation plan.

39. Timing of Mitigation Site Grading: Mitigation site grading shall be completed prior to or

within the same construction season as the commencement of the wetland fill activity.

- 40. Mitigation Construction Schedule:** The mitigation site shall be constructed in accordance with the following timetable:
- a. Grading shall be started by Beginning Date/January 1, 2999 and completed by Ending Date/January 1, 2999.
 - b. Planting shall be completed by Ending Date/January 1, 2999.
- 41. Mitigation Site Access Control:** A contiguous 4'-6' fence (or other barrier) shall be installed around the surveyed boundary of the mitigation and buffer areas as shown on Figure #Figure #, immediately following grading of the mitigation site and prior to grading any adjacent lots. A gate will be provided to allow access for authorized routine maintenance and monitoring activities.
- 42. Signs Required:** Signs shall be posted along the mitigation site perimeter stating that the area behind the sign is a protected wetland restoration site.
- 43. Long-term Protection of the Mitigation Site - Deed Restriction:** The mitigation site shall be protected in perpetuity by recording Declaration of Covenants and Restrictions and Access Easement (Protection Instrument) on the deed of the property. The protection instrument must be approved and signed by the Department prior to recording with Name of County County. A copy of the recorded instrument must be sent to the Department with the post-construction report.
- 44. Long-term Protection of the Mitigation Site - Conservation Easement:** The mitigation site shall be protected in perpetuity by conveying an approved Conservation Easement to Name of Long-term Steward. The protection instrument must be approved and signed by the Department prior to recording with Name of County County. A copy of the recorded easement must be sent to the Department with the post-construction report.
- 45. Long-term Maintenance Required (see OAR 141-085-0705(1)(j)):** Long-term site maintenance will be provided by Responsible Party unless or until transferred according to OAR 141-085-0585 (8).
- 46. {Optional:} Advance Mitigation Credits:** # of credits acre-credits of estuarine aquatic bed advance mitigation credits are proposed by Name of Permit Holder. These credits may only be used for future impacts where Name of Permit Holder or Name of Additional Party is the applicant for a permit and may not be sold on the open market. Future applications proposing use of the advance mitigation credit must comply with all applicable DSL statutes and administrative rules relating to the removal-fill program at the time of application. Future applications should identify the specific area within the mitigation area that will be used to compensate for each permitted impact, and these areas should be clearly and permanently marked on the ground.

MONITORING AND REPORTING REQUIREMENTS

- 47. Post-Construction Report Required:** A post-construction report demonstrating as-built

conditions and discussing any variation from the approved plan shall be provided to the Department within 90 days of mitigation site grading. The post-construction report shall include:

- a. A scaled drawing, accurate to 1-foot elevation, showing the finished contours of the mitigation site.
- b. A narrative that describes any deviation from the approved mitigation plan.
- c. A copy of the recorded deed restriction or conservation easement.

48. Term of Monitoring; Annual Monitoring Reports Required: The permittee shall monitor the mitigation site to determine whether the mitigation site is meeting performance standards for a minimum period of 5 growing seasons after completion of all the initial plantings. Annual monitoring reports are required. **{Optional:}** Reports should clearly separate information for advance mitigation areas that are unassigned as compensatory mitigation for any permit. Permits that authorize the use of advance mitigation credits prior to final determination of success by the Department will require additional monitoring and financial security under the future permit conditions. For advance mitigation credits proposed for use after the monitoring period has ended, future applications must provide a current year monitoring report to show that the proposed mitigation area continues to meet the performance standards established in this permit.

49. Annual Monitoring Report Due Date: Annual monitoring reports are due by Month & Day of each year. **{Optional:}** The required monitoring period shall be 10 years. A completed mitigation report cover form and summary of maintenance activities is required annually, and 6 full monitoring reports including monitoring data shall be submitted years 1, 2, 3, 5, 7, and 10.

50. Extension of the Monitoring Period: The monitoring period may be extended, at the discretion of the Department, for failure to provide monitoring reports, failure of the mitigation site to meet performance standards for two consecutive years or when needed to evaluate re-planting or other corrective or remedial actions.

51. Release of Mitigation Obligation: Mitigation monitoring is required until DSL has officially released the site from further monitoring.

52. Failure to Submit Monitoring Reports: Failure to submit the required monitoring report by the due date may result in an extension of the monitoring period, forfeiture of the financial security and/or enforcement action.

53. Contents of the Annual Monitoring Report: The annual monitoring report shall include the following information:

- a. Completed Monitoring Report Cover Sheet, which includes permit number, permit holder name, monitoring date, report year, performance standards, and a determination of whether the site is meeting performance standards.
- b. Impact and mitigation site location map(s).
- c. A brief narrative that describes maintenance activities and recommendations to meet success criteria.
- d. Mitigation site map showing permanent plot locations that correspond to the data collected and fixed photo-points.

- e. Data collected to support the conclusions related to the status of the site relative to the performance standards listed in this permit (include summary/analysis in the report and raw data in the appendix).
- f. Photos from fixed photo points (include in the appendix).
- g. Other information necessary or required to document compliance with the performance standards listed in this permit.
- h. A post-construction functional assessment by the end of the monitoring period.

54. **Corrective Action May be Required:** The Department retains the authority require corrective action in the event the performance standards are not accomplished at any time within the monitoring period.

PERFORMANCE STANDARDS

To be deemed successful, the mitigation areas including buffers shall meet the following performance standards, as determined by DSL:

55. **Establishment of Permanent Monitoring Locations Required:** Permanent plot locations must be established during the first annual monitoring in sufficient number and locations to be representative of the site. The permanent plot locations must be clearly marked on the ground.
56. **Wetland Acreage Required:** The CWM site will have a minimum of # of acres acres of HGM Cowardin class wetland as determined by a wetland delineation, as specified by the Department, during spring of a year when precipitation has been near normal, vegetation has been established, and irrigation has been removed for at least two years.

Herbaceous Wetlands

57. **Native Species Cover:** The cover of native species, as defined in the USDA Plants Database, in the herbaceous stratum is at least 60%.
58. **Invasive Species Cover:** The cover of invasive species is no more than 10%. A plant species should automatically be labeled as invasive if it appears on the current Oregon Department of Agriculture noxious weed list, plus known problem species including *Phalaris arundinacea*, *Mentha pulegium*, *Holcus lanatus*, *Anthoxanthum odoratum*, and the last crop plant if it is non-native. Non-native plants should be labeled as such if they are listed as non-native on the USDA Plants Database. Beginning in Year 2 of monitoring, DSL will consider a non-native plant species invasive if it comprises more than 15% cover in 10% or more of the sample plots in any habitat class, and increases in cover or frequency from the previous monitoring period. Plants that meet this definition will be considered invasive for all successive years of monitoring.
59. **Bare Substrate Cover:** Bare substrate represents no more than 20% cover.

60. **Species Diversity:** By Year 3 and thereafter, there are at least 6 different native species. To qualify, a species must have at least 5% average cover in the habitat class, and occur in at least 10% of the plots sampled.

61. **Moisture Prevalence Index:** Prevalence Index is <3.0.

Shrub-dominated and Forested Wetlands

62. **Native Species Cover:** The cover of native species, as defined in the USDA Plants Database, in the herbaceous stratum is at least 60%.

63. **Invasive Species Cover:** The cover of invasive species is no more than 10%. A plant species should automatically be labeled as invasive if it appears on the current Oregon Department of Agriculture noxious weed list, plus known problem species including *Phalaris arundinacea*, *Mentha pulegium*, *Holcus lanatus*, *Anthoxanthum odoratum*, and the last crop plant if it is non-native. Non-native plants should be labeled as such if they are listed as non-native on the USDA Plants Database. Beginning in Year 2 of monitoring, DSL will consider a non-native plant species invasive if it comprises more than 15% cover in 10% or more of the sample plots in any habitat class, and increases in cover or frequency from the previous monitoring period. Plants that meet this definition will be considered invasive for all successive years of monitoring. After the site has matured to the stage when desirable canopy species reach 50% cover, the cover of invasive understory species may increase but may not exceed 30%.

64. **Bare Substrate Cover:** Bare substrate represents no more than 20% cover.

65. **Woody Vegetation:** The density of woody vegetation is at least 1,600 live native plants (shrubs) and/or stems (trees) per acre OR the cover of native woody vegetation on the site is at least 50%. Native species volunteering on the site may be included, dead plants do not count, and the standard must be achieved for 2 years without irrigation.

66. **Species Diversity:** By Year 3 and thereafter, there are at least 6 different native species. To qualify, a species must have at least 5% average cover in the habitat class, **and** occur in at least 10% of the plots sampled.

67. **Moisture Prevalence Index:** Prevalence Index total for all strata is <3.0.

Upland Buffers

68. **Native Species Cover:** The cover of native species, as defined in the USDA Plants Database, is at least 60%.

69. **Invasive Species Cover:** A plant species should automatically be labeled as invasive if it appears on the current Oregon Department of Agriculture noxious weed list, plus known problem species including *Phalaris arundinacea*, *Mentha pulegium*, *Holcus lanatus*, *Anthoxanthum odoratum*, and the last crop plant if it is non-native. Non-native plants should be labeled as such if they are listed as non-native on the USDA Plants Database. Beginning in Year 2 of monitoring, DSL will consider a non-native plant species invasive if it comprises more

than 15% cover in 10% or more of the sample plots in any habitat class, and increases in cover or frequency from the previous monitoring period. Plants that meet this definition should be considered invasive for all successive years of monitoring. After the site has matured to the stage when desirable canopy species reach 50% cover, the cover of invasive understory species may increase but may not exceed 30%.

FINANCIAL SECURITY

24. Financial Security Required: A performance bond (financial security) in the amount of \$0.00 has been provided to the Department to ensure completion of compensatory mitigation in accordance with the conditions of this permit. Failure to keep the performance bond continuously in effect through the date of full performance of all of the permit holder’s obligations hereunder shall constitute a violation and default of this permit by permit holder. If at any time the Department is notified that the performance bond is to be canceled or not renewed, and a replacement financial security is not in place before the termination date, the Department may declare the permit holder to be in breach or default of its performance obligation under this permit. The Department may claim the full unreleased portion of the penal sum of the financial security, which the holder shall pay to the Department with 20 days after delivery of written notice to the holder of such financial security of such breach of default by permit holder.

70. Incremental Release of the Financial Security: The permit holder shall file a request with the agency for release of portions of this financial security. Portions of the financial security may be released. At the discretion of DSL, based on the following schedule:

- a. 25% release upon approval of the post-construction report, site protection instrument recorded, and first growing season monitoring report. The mitigation site must meet all applicable performance standards and establishment of appropriate acreage of wetland hydrology confirmed.
- b. 25% release upon demonstration that the required acreages of wetland have been confirmed by delineation of wetland hydrology and hydrophytic vegetation, and the site is meeting all other applicable performance standards after two growing seasons.
- c. 50% release upon approval of the final monitoring report and demonstrated success of the mitigation project based on the performance standards listed in this permit. All performance standards must be met for the final two consecutive years without irrigation.

Monitoring and Reporting Schedule

Report	Requirements	Schedule	Financial Surety Release Schedule
Post-Construction	Post-construction report Recorded Protection Instrument	90 days after completion of grading	
First Annual report	Establishment of permanent monitoring locations Vegetation performance standards	After one growing season of all proposed plantings	25% upon approval of the first annual monitoring report

	<p>Demonstration that wetland hydrology has been accomplished</p> <p>Evidence that water rights are secured, or are not required</p>		
Second Annual report	Vegetation performance standards	After two growing seasons	
Third and Fourth Annual reports	<p>Vegetation performance standards</p> <p>Actual acreage achieved by HGM and Cowardin class^α.</p>	<p>After three and four growing seasons, respectively. One "light delineation" should be completed during spring of a year when precipitation has been near normal and no irrigation has been in use during the previous two years</p>	Up to 25% upon achieving wetland acreage, and meeting all applicable vegetation performance standards
Fifth Annual report (or final report if the monitoring period has been extended)	<p>Vegetation performance standards</p> <p>Functional assessment^{αζ}</p>	After five growing seasons	50% release upon meeting all performance standards. The performance standards must be met without irrigation for two successive growing seasons

^αThese requirements may be fulfilled any time during the monitoring period, but must be received by the Department no later than the fifth annual monitoring.

^ζ Functional assessments shall meet the standards and requirements in OAR 141-085-0685. The same assessment method used for the pre-CWM site functional assessment should be used for monitoring purposes, unless otherwise approved by the Department.