

Why the Oregon Legislature Should Reject DEQ Budget Request #122

What DEQ 2015-17 Budget Request: “Restoring the Nonpoint Source Grant Program.”

Purpose The purpose of the request is to “make up for” a decrease in federal grant funds associated with federal agencies’ disapproval of Oregon’s Coastal Nonpoint Source Pollution Control Program.

Position Limited general fund dollars should not be used to compensate for DEQ’s 17-year failure to ensure a program is in place to protect water quality in Oregon’s coastal watersheds and its repudiation of commitments made in settlement of litigation. Doing so will undermine the clear intent of Congress and ill serve Oregon.

Background Congress passed the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) to induce states to protect water quality in coastal watersheds. Starting in 1996, CZARA required specific reductions in federal grant funds to states without approved Coastal Nonpoint Source Pollution Programs. Oregon has never had an approved program but has continued to receive grant funds.

On January 30, 2015, the federal agencies disapproved Oregon’s program because the state does not adequately protect water quality from logging near small and medium-sized streams, some logging roads, landslides, and pesticides.

Oregon has known these logging practices were not adequate to protect water quality since 1998, when the U.S. Environmental Protection Agency (EPA) and National Oceanic and Atmospheric Administration (NOAA) issued formal findings concerning the deficiencies. A lawsuit settled in 2010 required the federal agencies to make a final determination on Oregon’s program in 2014.

The settlement was based entirely on Oregon DEQ’s commitment to demonstrate— through a pilot project in the MidCoast Basin— that it both could and would make forest practices adequate to protect water quality. DEQ subsequently repudiated these commitments in a letter to the federal agencies dated July 1, 2013.

Why Reject? Oregon’s forest practices are not adequate to protect water quality for public drinking water, fish, and wildlife. By state law, Oregon DEQ and the Environmental Quality Commission (EQC) are responsible for ensuring forest practices protect water quality. *See* ORS §§ 527.765(2), (3) (Forest Practices Act provisions pertaining to the EQC’s role in setting Board of Forestry best management practices). DEQ and the EQC have failed to play their statutory role.

Congress passed CZARA to induce state agencies to remedy existing failures to

protect water quality in coastal watersheds in a timely fashion. If the legislature provides limited general fund dollars to DEQ to compensate for the agency's refusal to ensure protection of Oregon's water quality, the state will undermine the clear intent of Congress and encourage the continued degradation of coastal water quality from logging. DEQ was well aware of the consequences of failing to make good on the commitments it made to EPA and NOAA in 2010.