

NOAA/ODFW Tide Gate Regulatory Discussion Summary

4/6/18

NOAA and ODFW are working together to identify ways to move toward a coordinated, seamless and transparent approach to addressing state and federal permitting requirements for tide gate replacements.

The two agencies are meeting together initially, and will develop a plan to engage other state and federal agencies involved in this process. NOAA and ODFW will use their best efforts to achieve the following outcomes:

- ✓ Improves agency coordination;
- ✓ Includes clear, understandable processes for replacing tide gates;
- ✓ Ensures that steps to permit fish passage and associated habitat can be met through one process;
- ✓ Provides opportunities to expand the engineering toolbox with clear criteria that landowners, consultants and engineers can use in designing and implementing tide gate replacements to meet fish passage and habitat criteria;
- ✓ Clearly describes process in addition to replacement of the tide gate that will be needed to comply with the Endangered Species Act;
- ✓ Provides benefits for landowners related to improved infrastructure while supporting improved habitat for fish as well.

Areas ripe for alignment

- ✓ Aligned timing for state permitting and ESA consultation;
- ✓ Aligned submission of complete information;
- ✓ Joint review and approval;
- ✓ Process is consistent for all landowners: flexible, outcome-based implementation of permitting processes; agencies are clear on consistent criteria and can align how that criteria is applied
- ✓ Better identified design criteria and variables for engineers;
- ✓ Consistency around the data requirement for each agency related to what is expected for designs;
- ✓ Consistent starting point and outcomes for project, flexibility in how to implement
- ✓ Establish 'bins' for permitting to provide clear process steps based on habitat values, size or other factors;
- ✓ Identifying incentives for landowners to participate in new, streamlined approaches;
- ✓ Clarity on repair vs replacement that is aligned with all regulatory agencies.

Next steps

NOAA is working to finalize a programmatic consultation for tide gates. When this is complete, NOAA and ODFW staff will analyze the programmatic based on the opportunities outlined above to find areas where there is alignment currently, and where gaps exist to address the areas identified above.

NOAA and ODFW staff will develop a timeline and flowchart for completing alignment work and engaging other agencies, including state (ODFW, DSL, DEQ, ODOT), federal (NOAA, ACOE, NRCS, FEMA) (NOAA/ODFW)

State/federal agencies will complete a full evaluation of the current process and identify areas for streamlining along with a plan for implementation.