



DIVISION OF
STATE LANDS

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August 13, 1996

Mike Katz, Chairman
Energy Facility Siting Task Force
1600 SW Fourth Avenue, Suite 770
Portland, OR 97201

Re: Senate Bill 951 Task Force

Dear Mr. Katz:

Thank you for your letter of July 16 regarding the regulation of energy facility siting. Oregon Law regulates wetlands through both Land Use Planning Goal 5 and the Removal-Fill Law (see attached Fact Sheets).

Goal 5 requires jurisdictions to inventory local wetlands and identify those that are significant and therefore worthy of preservation. Local wetland inventories become part of the comprehensive plan.

Oregon's Removal-Fill Law requires mitigation for the adverse impacts of proposed projects on wetlands by considering, in the following order:

- a) Avoiding the impact altogether by not taking a certain action or parts of an action;
- b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
- c) Rectifying the impact by repairing or restoring the affected environment;
- d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking corrective measures; and
- e) Compensating for the impact by replacing or providing comparable substitute wetland or water resources.

A project that will remove or fill more than 50 cubic yards of material in wetlands must obtain a removal-fill permit from the Division of State Lands. The permit application must include a detailed mitigation plan. The plan typically is prepared by a consultant with expertise in wetlands science, and is approved by the Division's wetlands staff.

Projects impacting wetlands also require a permit from the U.S. Army Corps of Engineers. The Division and the Corps have developed a joint permit procedure that uses a single application form and public review process.

While the Energy Facility Siting Council can determine whether a project may be sited in wetlands in a manner consistent with other engineering and planning requirements, the Division believes that regulation of the impacts on the wetlands should continue to reside with us. This will ensure consistency in mitigation requirements with other types of wetlands projects, and that the one-stop permitting we have developed with the Corps will continue. It will also obviate the need for the Council to hire wetlands scientists to review and approve mitigation plans.

Thank you for the opportunity to contribute to your deliberations on energy facility siting. If you have any questions about the Oregon Removal-Fill program, please feel free to call me at 378-3805.

Sincerely,


Paul R. Cleary
Director

dir:1506

Attachments

c: Roy Hemmingway, Governor's Office
Janet Morlan, Division of State Lands