



Oregon

Theodore R. Kulongoski, Governor

Department of State Lands

775 Summer Street NE, Suite 100

Salem, OR 97301-1279

(503) 986-5200

FAX (503) 378-4844

www.oregonstatelands.us.

November 12, 2010

CLL600/45455

OSU HATFIELD MARINE SCIENCE CENTER

ATTN GEORGE BOEHLERT

2030 SE MARINE SCIENCE DR

NEWPORT OR 97365

State Land Board

Theodore R. Kulongoski

Governor

Kate Brown

Secretary of State

Ted Wheeler

State Treasurer

Re: DSL Removal/Fill Permit Application No. 45455-FP
T. 11S, R. 11W, Section 17, Tax Lot 104, Newport, Lincoln County

Dear Mr. Boehlert:

The Department of State Lands' 30-day public review period has closed for the permit application referenced above. We are enclosing copies of all written comments that we have received. We offer you the opportunity to address the following comments relevant to our permit-decision making process:

1. Oregon Department of Fish and Wildlife

Other enclosed comments are provided for your information and do not require a response by the Department. Please be sure any responses are submitted to the commenting party and to my attention.

We ask that any responses you wish to make be submitted in writing within 25 days of the date of this letter to allow adequate time for review prior to making our permit decision. If you wish to provide a response that will take more than 25 days to prepare, please inform me as soon as possible of the anticipated submittal date.

Please be aware that the Department of Environmental Quality (DEQ) has until December 25, 2010 to submit comments on your application (ORS 196.825(9)(b)) if a water quality certification is required. If DEQ submits comments requiring your response, we will contact you immediately.

We will make a permit decision on your application by January 9, 2011 unless you request to extend that deadline.

Please call me at 503-986-5285 if you have any questions.

Sincerely,

Carrie Landrum

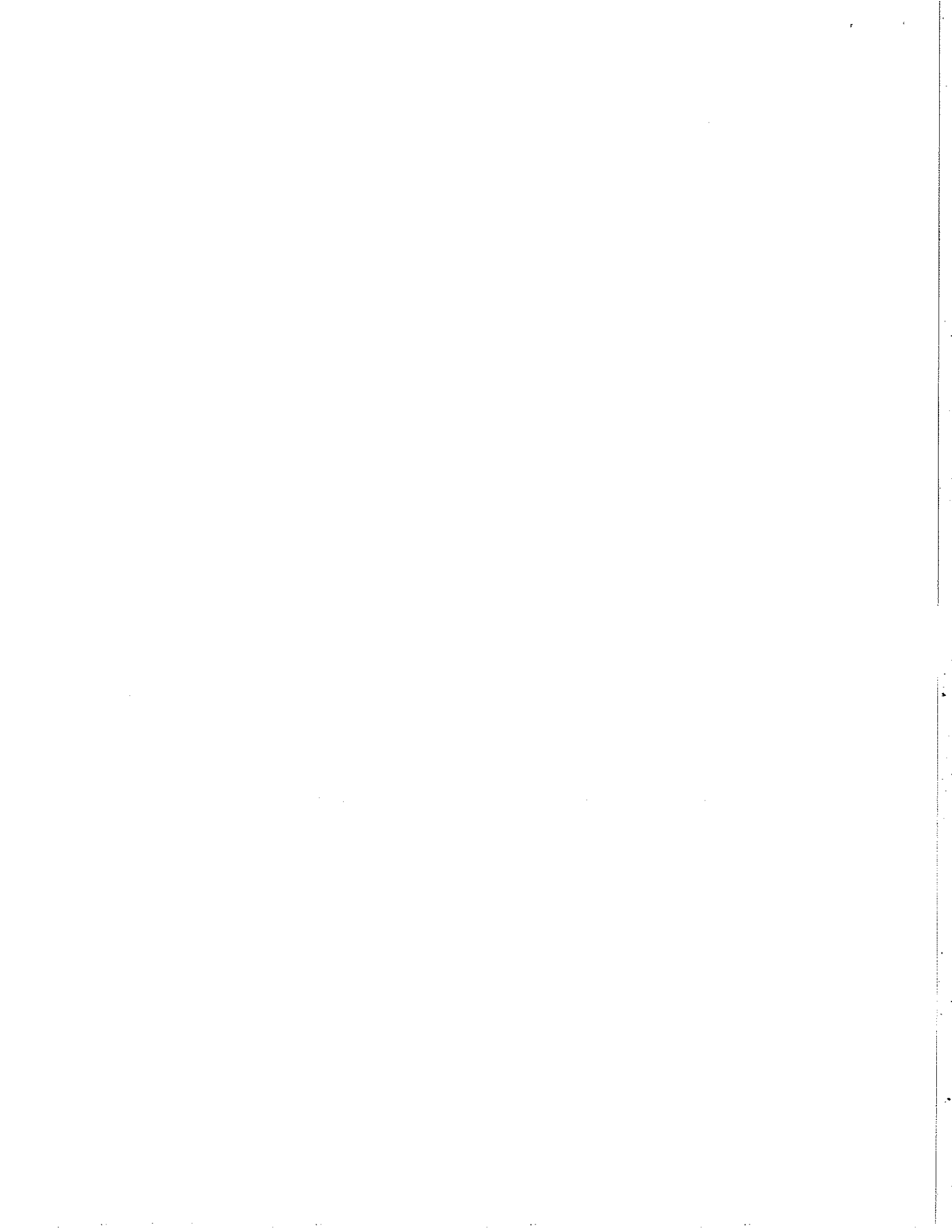
Northern Region Resource Coordinator

Wetlands and Waterways Conservation Division

Oregon Department of State Lands

Cc: Thomas Taylor, Portland Corps of Engineers





November 10, 2010

Carrie Landrum
Department of State Lands
775 Summer Street NE
Salem, Oregon 97310

Thomas Taylor
Portland District, Corps of Engineers
P.O. Box 2946
Portland, OR 97208

RE: APP0045455

Dear Carrie and Tom:

The Oregon Department of Fish and Wildlife (ODFW) has reviewed the removal-fill application APP0045455 as submitted by the OSU-Hatfield Marine Science Center (HMSC). The ODFW has expressed concerns to the applicant and various HMSC staff on this permit application. However, no changes have been made by the applicant to address areas ODFW identified as impacting estuarine habitat. ODFW recommends denial of this permit application based on the following concerns.

1. The applicant does not propose mitigation for 550 cubic yards of fill into an estuarine inter tidal area that is essential salmon habitat (ESH).
2. The permit would allow additional fill of 40 cubic yard of rock annually into inter tidal estuarine habitat again with no mitigation.
3. Actual erosion rates are much less than described in the application.
4. The proposed armoring extends beyond areas needed to protect buildings or other infrastructure.
5. The application has inaccurate information on impacts to ESA listed coho salmon and other juvenile fish.
6. The 550 cubic yards of rock material is foreign to the location where it will be placed and is thereby likely to favor exotic over native species.

The ODFW has a Fish and Wildlife Habitat Mitigation Policy that guides the department's recommendations to protect habitat (OAR 635-415-000 to 0025). The habitat proposed to be filled in the application is considered by ODFW to be high quality estuary habitat. The proposed cobble fill will result in an overall net loss of estuarine habitat. To be consistent with ODFW's Habitat Mitigation Policy, ODFW would recommend no net loss in either habitat quantity or quality and provide a net benefit.

The application states in attachment 3, page 4, paragraph 1 that effects to juvenile salmonids would be minimized because of the “intermittent availability of the habitat”, “no vegetation to provide refuge from predators” and “loss of food from the affected area is inconsequential”. The ODFW finds these claims to be inaccurate and misleading. Based on years of ODFW estuary seining studies conducted along the Oregon coast, juvenile coho and other salmonids have consistently been found, often in high densities, in estuary habitat very similar to the proposed revetment site. In fact, most of the ODFW standard seining sites in the coastal estuaries are located in areas with little to no vegetation and dominated by sand substrate. Estuary habitat is of critical importance to juvenile salmonids including areas that are “intermittently” available as they provide an area with abundant feed and an area to spread out and avoid predators.

Open sand habitats have high ecological value for infaunal invertebrates such as small clams, crabs, burrowing shrimp, amphipods and polychaete worms as well as foraging resident and migratory fish species including sculpin, perch, sole and juvenile salmon. Additionally, open tideflats can be densely colonized by diatoms and various other algae which make up the “microphytobenthos” layer, a living layer of microscopic organisms that inhabit the surface.

The addition of large volumes of rock to an area that naturally had a sand substrate will be a disadvantage to the native species in the area and favor establishment of exotic species. This is a particular concern in this area because of the large volume of ship traffic in close proximity which could serve as a conduit to bring in foreign organisms.

In several sections of the application the erosion rate is stated as being up to 13 feet during the winter of 2009-10 for approximately 500 linear feet. This information portrays an erosion rate with immediate dire consequences. However, actual erosion rates are much less than described in the application. The reported 13 feet of erosion actually occurred over at least a three year period (rather than one) and occurred at a single point where erosion was most extreme (personal communication with Walter Nelson, EPA). At the far end of the 500 foot section proposed for bank armoring, erosion was actually less than one foot per year with some areas not eroding at all. While ODFW recognizes a need to protect the seawater system infrastructure, the application portrays a much worse scenario than actually exists.

The proposal calls for the dynamic revetment to extend for approximately 500 linear feet. The proposed distance is excessive and goes well beyond the immediate threat of the sea water system infrastructure. ODFW does not see a need to extend the revetment for 500 feet other than to protect an existing estuary trail. The department does not view the trail as essential infrastructure. If erosion occurs that threatens the trail, ample room exists to adjust the trail location.

A final concern is with the request to annually replenish the revetment with up to 40 cubic yards of gravel/cobble. ODFW does not believe this should be considered maintenance and thus would require a permit and associated mitigation for any additional fill into essential salmon habitat.

To summarize, ODFW does recognize the need to protect the seawater system infrastructure but believes that 500 feet in revetment goes well beyond the scope of protecting the immediate building in question. The proposed revetment would have significant impacts to ESA listed coho salmon and does require appropriate mitigation as guided by the ODFW Mitigation Policy. As discussed during an October 22nd meeting between ODFW and HMSC staff, ODFW believes there are opportunities for resolution that would both protect important infrastructure and mitigation for estuary impacts consistent with the HMSC desire to avoid rip rap and allow dynamic processes to the extent feasible.

ODFW welcomes further discussions with the applicant and the regulatory agencies.

Sincerely,

Derek Wilson
Assistant District Fish Biologist
Oregon Department of Fish and Wildlife
Mid-Coast Fish District
(541) 265-8306 ext 236

Cc:

Bob Buckman - ODFW
Doug Cottam - ODFW
Patty Snow - ODFW





Oregon

Theodore R. Kulongoski, Governor

RECEIVED

OCT 25 2010

DEPARTMENT OF STATE LANDS

Parks and Recreation Department

State Historic Preservation Office

725 Summer St NE, Ste C

Salem, OR 97301-1266

(503) 986-0671

Fax (503) 986-0793

www.oregonheritage.org

October 21, 2010

Ms. Carrie Landrum

DSL

775 Summer St NE

Salem, OR 97301-1279



RE: SHPO Case No. 10-2120

APP0045455

Streambank erosion control structure

DSL/COE/OSU

11S 11W 17, Newport, Lincoln County

Dear Ms. Landrum:

Our office recently received a request to review the proposal for the project referenced above. In checking our statewide cultural resource database, I find that there have been no previous cultural resource surveys completed near the proposed project area. However, the project area lies within an area generally perceived to have a high probability for possessing archaeological sites and/or buried human remains.

While not having sufficient knowledge to predict the likelihood of cultural resources being within your project area, extreme caution is recommended during future ground disturbing activities. ORS 358.905 and ORS 97.740 protect archaeological sites and objects and human remains on state public and private lands in Oregon. If any cultural material is discovered during construction activities, all work should cease immediately until a professional archaeologist can assess the discovery. If your project has a federal nexus (i.e., federal funding, permitting, or oversight) please coordinate with your federal agency representative to ensure that you are in compliance with Section 106 of the NHPA.

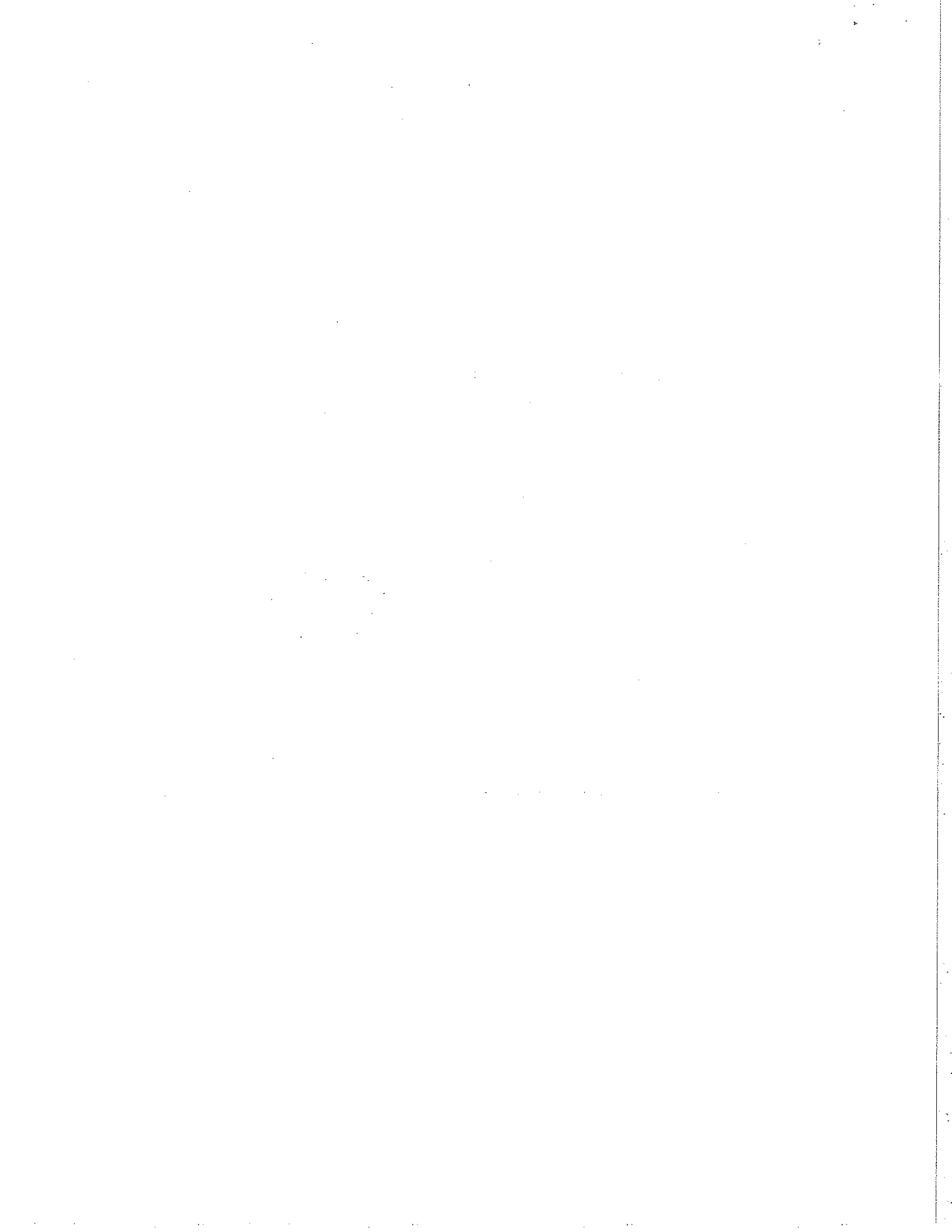
If you have any questions about my comments or would like additional information, please feel free to contact our office at your convenience. In order to help us track your project accurately, please be sure to reference the SHPO case number above in all correspondence.

Dennis Griffin, Ph.D., RPA

State Archaeologist

(503) 986-0674

dennis.griffin@state.or.us



Comments for Application APP0045455 (Applicant: OSU)

Reviewed by DSL Proprietary Staff Member: chris.castelli@dsl.state.or.us

Proprietary Issues? No Proprietary Issues

Date Reviewed: 7/21/2010 1:36:16 PM

Comments:

--State-ownership at this site is to mean low tide. This project appears to be above MLT.

NAME: Derek Wilson

CITY: Newport

STATE: OR

AGENCY: Oregon Department of Fish and Wildlife

COMMENTS:

- Expect adverse impact to State- or federally-listed species.
- Compensatory mitigation insufficient to compensate for adverse impacts.
- Recommend permit denial.

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disadvantage to the native species in the area and favor establishment of exotic species. This is a particular concern in this area because of the large volume of ship traffic in close proximity which could serve as a conduit to bring in foreign organisms.

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Derek Wilson
Assistant District Fish Biologist
Oregon Department of Fish and Wildlife
Mid-Coast Fish District
(541) 265-8306 ext 236

Cc: Thomas Taylor – U.S. Army Corp of Engineers
Bob Buckman - ODFW
Doug Cottam – ODFW
Patty Snow - ODFW

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