

Joelle Gore, Acting Chief
Coastal Programs Division (N/ORM3)
Office of Ocean and Coastal Resource Management, NOS
NOAA, 1305 East-West Highway
Silver Spring, Maryland, 20910,

March 14, 2014

Dear Ms. Gore:

I do not dispute that Oregon has not fully met all the remaining conditions on its Coastal Nonpoint Pollution Control Program. While Manager of the Oregon Coastal Management Program (OCMP) from 2003 – 2011, I was directly involved in working with the Governor's Office, the Oregon Department of Environmental Quality (DEQ), the Oregon Department of Forestry (DOF), and the two federal agencies, EPA and NOAA in attempting to bring the State of Oregon into compliance with these four remaining measures. As witnessed by the current proposed findings and penalties, those attempts failed.

What is sad and disappointing is that these efforts failed not because these agencies did not want to comply or made no effort to adopt rules or regulations to meet the four measures, but because the ultimate ability to adopt the needed measures lay not with the agencies but with the state legislature. And the legislature failed to either make the needed statutory changes or to authorize the appropriate agency, e.g. DEQ, to do so, or direct that regulations be changed, e.g. Forest Practices Act. At the legislative level, the remaining conditions are politically contentious with a long history and strong lobbies. So it is neither simple nor easy to change the law on these issues.

Specifically, the Oregon Coastal Management Program within the Department of Land Conservation and Development, which is facing a financial penalty, has absolutely no ability to change the Forest Practices Act, to change state law regarding on-site inspection of septic tanks, or to adopt any water quality regulations such as TMDLs for coastal streams. Yet the OCMP stands to lose close to one-third of its federal coastal zone management funding for being unable to perform what it legally cannot do. The OCMP passes a significant amount of its annual federal coastal funds to local governments to assist in coastal planning and related work of regulating development, as well as technical assistance to address such issues as ocean shore erosion, tsunami preparedness, estuary habitat restoration, waterfront revitalization, and climate change. The proposed financial penalties will eliminate that assistance to local governments and cause other cuts in an already lean program.

For nearly forty years the Oregon Coastal Management Program has done outstanding work to comprehensively address an enormous number of coastal development and conservation issues that have helped to keep the Oregon coast an international attraction with livable, vibrant coastal communities. Could it be better? Of course. However, even if a few people feel like they will have proven a legal point if financial penalties are assessed, the fact is that doing so will serve absolutely no public purpose. Penalties will be counterproductive because it will cripple the work of local governments and the OCMP without achieving the measures that NOAA and EPA seek.

I urge NOAA and EPA to continue to work with the state to address the remaining issues. But I urge you to forego the financial penalty.

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