

### 3. ENVIRONMENTAL QUALITY: AN OREGON VALUE, AN ECONOMIC PLUS

#### Background

Oregonians have a passion for protecting their natural environment and quality of life. This is reflected in laws providing for public beaches, recycling, and careful land use planning. The quality of Oregon's environment is a plus for us as we compete to attract and retain people to work in or to create future growth businesses. As congestion and pollution mount in neighboring states, Oregon's commitment to environmental quality will increasingly yield higher economic returns.

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Most of the industry groups in the strategic planning process cited Oregon's quality of life as a positive factor for industry growth. Especially for knowledge-intensive industries, where people make a critical difference in the success of a firm, a region that can boast affordable housing, good transportation, and access to quality urban and outdoor recreation experiences will have a substantial advantage.

For Oregon, this advantage may be growing. Oregon is the most sparsely populated state on the West Coast and has in place the most sophisticated systems of land-use and environmental planning. The quality of life in the major urban areas of California and Washington is deteriorating due to the inability of those states to provide public facilities and develop urban plans that efficiently accommodate economic growth while maintaining quality of life. For example, housing prices in California are nearly triple those in Oregon. Commute times in the major cities are much longer, and in the Los Angeles basin, air quality is a very serious problem. Last year, the Los Angeles area exceeded the federal ozone air quality standard more than 170 days. Recently, the *Los Angeles Times Magazine* ran a cover article entitled, "Quality of Life in Los Angeles: How Bad is It?", which surveyed area residents and reported growing citizen dissatisfaction with life in that city. Nearly half the Los Angeles residents responding to the survey said they have considered moving out of the Los Angeles area in the past year. Similarly, as the Seattle and San Francisco Bay areas have grown during the 1980s, congestion and urban sprawl are noticeable.

Washington and California are larger and have grown more rapidly recently than Oregon, and, therefore, they have been confronted with the major problems of massive growth sooner. If projections are accurate, soon it will be Oregon's turn to confront similar growth in its major urban areas. Oregon's sophisticated land use and transportation planning and environmental regulatory systems will be challenged as never before.

### **Vision**

Our vision is clear. The past two decades Oregonians have been committed to nurturing and sustaining Oregon's environmental quality, to growing economically while preserving an excellent quality of life. If we can maintain our efforts and achieve this goal, Oregon will be the envy of the West Coast, with economic growth and an unspoiled environment reinforcing and supporting each other rather than conflicting and colliding.

Of course, environmental regulations can sometimes constrain businesses that develop the state's natural resources or that create pollutants in their manufacturing processes. Oregon's environmental regulatory agencies are committed to helping businesses grow and prosper while still protecting the state's natural environment. In addition, Oregon is committed to creating a predictable regulatory environment, one that enables businesses to plan for the future. For example, the State's land use policies provide a framework for assuring that development can be accommodated within urban growth boundaries and proceed smoothly without the lengthy zoning battles characteristic of many other states.

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### **Four Issues Key to Our Environmental Quality Agenda**

As part of this strategic planning process, several environmental and land use issues were reviewed to assess their role in enhancing Oregon's quality of life while providing for positive economic development. Many of the strategic planning committees raised concerns about a small group of similar issues critical to maintaining our natural environment and quality of life and occasionally hampering appropriate economic development. These important issues are:

- Urban growth management
- Preservation of natural resources and enhancement of recreational opportunities

- Protection of air and water quality
- Environmental and land use regulatory processes

### 3.1 URBAN GROWTH MANAGEMENT

Oregon's tradition of environmental protection must extend to the management of urban growth. As cities up and down the west coast have experienced growth over the past two decades, in nearly every case, the quality of life has deteriorated with congestion, pollution, and overtaxed services.

If as we expect, the 1990s will be a decade of substantial economic and population growth for many of Oregon's cities, we will be challenged to govern the state to avert the worst impacts of growth and to maintain Oregon's quality of life as a major competitive advantage for attracting the people and companies we seek to drive an advanced economy. Drawing on the state's tradition of environmental protection, and the strong regulatory structure already in place, Oregon is well-positioned to distinguish itself as a place where environmental quality and business growth support rather than impede each other. To achieve this vision, Oregon's comprehensive land use planning system will have to be strengthened, and state and local environmental, transportation and public works agencies will need to work closely together.

This section reviews the challenges facing growing urban areas around the state, and it outlines directions for improving Oregon's urban growth management. Any modifications in current planning will have to take into account the significant differences between the Portland metro area, mid-size cities down the I-5 corridor, and smaller cities, particularly rapidly growing areas such as Bend-Redmond.

#### **Trends in Urban Growth**

Despite Oregon's reputation in both land use planning and environmentalism, the signs of uncontrolled growth-- sprawl, smog, garbage, gridlock, and lack of affordable housing--are all too frequent in our state. We are in danger of losing control of the high quality of life in our cities.

- **Sprawl.** Low-density high-priced residential development is eating up much of the land around cities which would have been the site of future urban expansion. Some 70,000 people live in Washington and Clackamas Counties outside of the Portland Urban Growth Boundary, on one-, five- and even ten-acre plots, often with septic tanks and well water. Similar growth is occurring in Deschutes and Jackson and Josephine Counties as well. Future annexation

of these areas would be extremely difficult, due to the cost of retrofitting water and sewer services. Cities may be forced to leapfrog these areas in order to expand, further adding to development costs.

- **Pollution.** Air pollution from a variety of sources is a serious problem in the Portland area, Klamath Falls, Medford, and Eugene. Water pollution, in many areas due to non-point source runoff (many sources rather than one, such as a factory), has tainted not only the Tualatin River but Bear Creek in Medford and other streams.
- **Solid Waste.** Landfill costs in Seattle have quadrupled over the past few years, as available dumps filled up and polluted dumps had to be cleaned up. While landfill problems are less serious in Portland, significant cost increases can be expected. Landfills in Eastern Oregon are accepting garbage from Washington, shortening their lifetime for accepting Oregon garbage.
- **Gridlock.** Traffic jams occur with regularity in the Portland area, especially in Washington County. The Metro area regional transportation plan calls for \$2.5 billion in transportation improvements in the Portland area over the next 20 years. Only about \$1 billion of this amount is committed or anticipated from current funding sources. Even with all of the improvements, including significant increases in mass transit ridership, congestion is expected to double on freeways and minor arterials and almost triple on principal and major arterials. Other areas have problems as well. Salem, for example, lacks good east-west arterials, and Eugene has poor freeway access. The development of U.S. Highway 97 in Bend into a commercial strip is choking through traffic there.
- **Affordable Housing.** Housing prices in the more rapidly growing parts of the nation have skyrocketed as demand has far outstripped supply. Land use policies which designate residential land for all income levels will be critical for maintaining a housing price advantage in the future.

These problems have all become worse in the past decade even though population growth came to a standstill during the recession. This is because urbanization of the population is occurring much faster than overall population growth. From 1978 to 1988, the number of Oregon residents grew by just under 9 percent, while the number living in incorporated areas increased by 19 percent. The share of Oregonians living in cities grew from 55 percent to 61 percent. Further, a growing number of residents live directly adjacent to urban areas on land without urban services. As a more rapid population growth rate resumes in Oregon, acceleration of urban decay can be expected.

At the same time, resources for public services and facilities to meet the demands of growth have declined. State and local agencies have retrenched in their budgets, basic industries have suffered, and federal grants have dried up, while demands for urban services have grown. See Part II-4, Financing Public Services and Facilities.

### **Planning for Metropolitan Growth**

A new vision for urban growth is needed in Oregon. While there is a common desire to avoid the problems of other cities, there is no articulated model for how that desire might be satisfied. Such a model might include features such as rigid urban growth boundaries (UGBs) with surrounding buffer zones for existing metropolitan areas (Portland, Salem, Eugene, Medford), incentives for denser urban development within UGBs, and measures to develop urban growth nodes throughout the state, while controlling development on secondary rural lands. It is clear that without modifications of the current system, the two goals of the Land Conservation and Development Commission -- conservation of resource lands and managed growth of urban lands-- will not be met. Instead, city boundaries will continue to expand in all directions.

Our ability to define a comprehensive transportation, land use, and environmental plan that will accommodate growth while maintaining clean air, affordable housing, reasonable commutes, and ample open space will be a critical determinant of Oregon's long-term economic well being. Such a plan should include the following elements.

### **Vision**

The heart of urban management is a "big picture" vision of how an area should develop. Such a vision should encompass the values of the region and capture the imagination of both leaders and citizens at large.

Current comprehensive planning has focused (of necessity) so much on regulation and prohibition that the positive aspects of planning have sometimes been overshadowed. Recently the city of Corvallis undertook a community vision project. According to one account of the process, the project was undertaken because,

...it was determined that although the plan did provide general policies for the long-term growth of Corvallis, it failed to identify specific actions. In fact, with no cohesive statement of community values, it had never truly resolved conflicting values concerning the future growth of the city. As such, its vision for the future was unclear and unconvincing.

After a year's worth of public input, a vision statement has been drafted that will be used to guide the periodic review of Corvallis' comprehensive plan, as well as future development decisions.

The Portland Metropolitan area sorely lacks an overall vision of development. Fortunately, the Metropolitan Service District has recently initiated an Urban Growth Management Plan process, involving local political leadership and private sector representatives in an evaluation of the Portland Metro UGB. Goals of the plan include integrating and consolidating "a variety of adopted plans and policies in such areas as transportation, solid waste, housing, storm water, waste water treatment, and land use", as well as dealing with secondary rural land development outside the UGB. Developing an overall vision of growth for the metro area is crucial. Metro expects population in the Portland area to grow by 400,000 over the next 20 years -- up 32 percent. How will this growth be accommodated, while still preserving or even improving the area's quality of life? The Urban Growth Management Plan must guide the metro area in answering this question.

This kind of process, intended to clarify a vision of a community's future, is needed throughout the state as a way to anticipate growth and minimize the costs of development.

### **Integrated Land Use, Transportation, and Housing Design**

Land use, transportation, public facility, environmental quality, and parks and recreation plans ideally should all serve a common vision of growth for the region. Land use planning goals include all these major elements. In practice, however, planning tends to occur on parallel tracks.

There has been significant progress in cooperation and coordination in recent months. For example, the Department of Transportation has been striving to connect transportation planning more fully with land use plans. In addition, it has worked closely with local governments and community leaders in developing a vision for community transit. Both are important steps. Ultimately, sewers and water system developments as well as transportation need to be connected with a comprehensive vision for where and how growth will occur.

### **Political Consensus**

State and local jurisdictions must share a common vision of regional growth, and coordinate their roles. The State must provide visionary leadership to facilitate development as well as enforce regulatory constraints.

Better coordination of planning is needed between and among State agencies and local governments. State agencies responsible for transportation, land conservation, environmental quality, and economic development should work together on a regional basis to coordinate regulation and capital spending. The State also needs to take on more of a leadership role in defining positive models of urban development. Local government entities need to cooperate together on regional vision, as well.

## **Resources**

There must be adequate resources to implement any plan. Thus, plans must have broad popular support. As discussed in Part II-4, Oregon will need additional resources to meet its public service and facilities needs for planning and infrastructure in order to protect urban quality of life. In the Portland area, for example, the 20-year regional transportation plan is budgeted at \$2.5 billion. Only about \$1 billion is available from current revenue sources. Community vision and broad public support will be required to raise the balance.

## **Summary on Urban Growth**

Oregon has the possibility of growing over the next two decades in a way other regions can now only dream about: growth in an unspoiled environment. In the period just ahead, it is incumbent upon Oregonians and responsible state and local agencies to take the steps needed to assure that Oregon's urban areas do look different than others along the West Coast as we enter the 21st Century.

## **Actions**

- State agencies responsible for transportation, land conservation, environmental quality, and economic development should set up an interdepartmental team at the commission, staff, and regional levels to examine urban growth management issues. The State should explore altering administrative rules for Comprehensive Planning Goals 12 (public facilities) and 14 (transportation) to better integrate infrastructure projects with land use planning. Use of more aggressive planning tools such as acquisition of development and transportation rights should be considered.
- The interdepartmental teams should encourage local governments to develop regional plans through COGs or other forums. Each area would be responsible for producing a vision for urban growth within the area and for integrating planning within and outside UGBs.
- The Department of Land Conservation and Development should seek funds for a planning study which evaluates urban growth management, particularly the effectiveness of the urban growth boundary, as well as other issues such as annexation laws. Funds should be used to assist three metropolitan areas in Oregon in defining a vision for urban growth, identifying key hurdles in achieving that vision, and proposing specific steps for overcoming those hurdles.

### **3.2 NATURAL RESOURCES PRESERVATION AND ENHANCEMENT OF RECREATIONAL OPPORTUNITIES**

Oregon is a special place, a place where people can leave the center of a city and be skiing, fishing, or walking on the beach in an hour or less. Few places in the world offer such extraordinary recreation opportunities close to population centers. As Oregon grows we need to make sure that these opportunities continue adding to the quality of all Oregonian's lives. In addition, Oregon's outdoor recreation opportunities are a major draw for visitors, promoting Oregon's tourism industry.

Oregon's commitment to preserving outdoor recreation -- from coastal access to scenic rivers to a nationally acclaimed state park system -- is one of Oregon's proudest legacies. This section highlights several issues we must deal with to sustain and build upon that legacy.

#### **Fish and Watershed Enhancement**

Most of Oregon's State-owned and State-financed salmon and trout hatcheries were built or upgraded during economic growth periods following World Wars I and II. These facilities have served well, producing millions of trout, salmon and steelhead annually. During the economic decline of the past decade, dollars for operating these hatcheries and fishery management programs have been limited. Priority funding went to fish production and related management and research efforts. Hatchery maintenance and upgrades, new facilities and new enhancement programs have been deferred again and again.

The result has been the deterioration of many facilities to the point the current levels of production, particularly for salmon and steelhead, are now threatened. Likewise, funds needed for maintenance of fishways, expansion of habitat improvement projects and other beneficial programs were cut to keep artificial production at acceptable levels. The ultimate consequence: reduced ability to meet future needs that will assure continued hatchery and natural production of salmon, trout, steelhead, warm water and marine fish and shellfish.

Fortunately, Oregonians have not been satisfied with the status quo. During this period, the Salmon and Trout Enhancement Program (STEP) brought hundreds of citizens to our rivers and streams to remove blockages to fish passage and otherwise improve natural production. From the STEP Program and a Northwest Power Planning Council Fish Program, we have learned that we can double fish runs in the state. This benefits everyone -- commercial fishermen, local and visiting sport fishermen, and the resource itself.



The Oregon Department of Fish and Wildlife has developed a comprehensive and aggressive fish restoration and enhancement program for the future. It will provide funds to improve hatcheries, remove barriers to fish passage, develop freshwater impoundments, build fishing piers, increase access to rivers and streams, and improve fish stocks. This program is needed to nurture our long-standing investment so it may grow.

### **State Parks**

Our state parks system, one of the best in the country, was allowed to deteriorate during the 1980s due to funding shortages. In 1980 the Oregon Constitution was amended prohibiting the use of gas tax funds for parks. That income has not been fully replaced by user fees and general funds. Our parks system has not changed to meet Oregon's needs. And our needs are changing rapidly.

Studies show that traffic into Oregon parks will soar by the year 2010. Population is growing. Leisure time is expected to decrease, causing people to shorten their vacations and take them closer to home. State parks use is expected to increase by 40 percent. Yet we have not opened a new park in the last ten years.

In December 1987, the Oregon Transportation Commission established the State Parks 2010 Citizen Committee. The committee worked for a year to develop a new long-range plan for the state parks system. Committee recommendations focus on several key priorities: rehabilitating existing facilities, developing new parks and campgrounds, improving interpretive services, and building more trails and improving coordination with other entities providing outdoor recreation opportunities.

All of these things are costly. Right now few people even realize the financial crisis facing our parks. In order to increase the visibility of the parks and recreation program and begin to build a constituency for a new funding source, the Governor introduced a bill to the 1989 Legislature to create a new department of parks and recreation headed by a new broad-based citizen commission. The Governor also proposed the creation of an interagency outdoor recreation coordinating council to assure that all federal and State agency activities are coordinated. This represents an important first step in assuring an excellent parks system in the decades ahead.

### **Scenic Rivers**

Oregon's wild and scenic rivers system fared well in 1988. Congress passed the Omnibus Oregon Wild and Scenic Rivers Act adding 1,700 miles of Oregon rivers to the federal Wild and Scenic Rivers System. Oregon voters included additional miles of river to the State Scenic Waterway System when they passed Ballot Measure 7 in November 1988. These laws make Oregon the national leader in

protecting free-flowing streams for fish, scenic values, water quality and recreation.

We need to provide sufficient staff to administer the scenic rivers program and develop management plans for each stream. We also need to improve public access to scenic rivers consistent with protecting key resource values and private property rights. We have the opportunity to demonstrate what comprehensive river management really can achieve and we need to take advantage of that opportunity.

### **Management of Federal Lands and Oregon's Forests**

Many of the recreation opportunities Oregonians enjoy occur on federally owned lands administered by the U.S. Forest Service and the Bureau of Land Management. Sound stewardship on these federal lands is especially critical since they are also a major source of raw materials for our resource dependent industries. The federal government owns 52 percent of Oregon's total land area.

Perhaps the greatest environmental challenge facing Oregon is deciding how these federal lands should be managed. Oregonians expect the State to protect our forests and the soil, water, air, plant and animal resources that they contain. In this context, a strategic plan for Oregon's economic development must nurture and balance the many types of forest outputs that contribute to the economic well being of the state -- timber, minerals, livestock forage, fish, game, water, recreation, and tourism.

Oregon's forest products industry has emerged from the deepest recession in its history, stronger and more productive than before. The future, bright with the promise of renewed markets at home and abroad and hard-won reductions in manufacturing costs, is clouded by the projected reductions in harvests in the state. How extensive these reductions will be depends in part on decisions now being made in the federal forest planning process.

During the next decade, harvests from Oregon's forests will almost certainly decline. According to estimates, harvests from the state's private land (which represent about 40 percent of the supply) will drop by about one-fourth to one-third, and will not increase again until sometime early in the next century. Yields from federal forest lands (which represent about 55 percent of the supply) will drop as well. The extent of the decline will depend upon information about how much land is available (the Forest Service inventory is in some cases incomplete), and by the policy decisions made by the Forest Service as it balances competing values for the use of the forest. This bleak outlook is aggravated further by the fact that there is a shift in the balance of timber species for harvest. For two high-value trees -- ponderosa pine and old growth Douglas fir -- the reductions will probably be greater.

Decisions by the Forest Service raise very significant environmental and quality-of-life issues as well. The forests provide benefits in the form of recreational opportunities, tourism, habitat for fish and wild animals, and clean drinking water.

Attracting and keeping skilled, productive people depends, in part, on creating and maintaining an environment in which such people wish to work, live, and play. Much of that environment depends on the quality of our cities, but part will depend on the management of our forests, including maintenance of spectacular forest scenery.

Oregon's comparative advantage in tourism comes in large part from mountains, lakes, rivers, and magnificent stands of timber. Our forests, especially national forests, lie adjacent to major tourist routes along the coast and across the Cascades and also surround many destination resorts. Camping facilities, forest roads, and hiking trails on the national forests provide a major portion of the infrastructure needed to support a forest-based tourist industry.

### **The Role of State Government in Forest Management**

The management of Oregon's forests is of such importance to the future of the state's wood products industry, to the many other industries dependent on forest resources, and to the quality of the state's environment that State Government must place a high priority on forest land management issues. The State must gather the best information possible to understand the implications of alternative forest management plans on the economy and the environment, explore all avenues for managing forest lands to their greatest potential, and, finally, make recommendations to the Forest Service and the Bureau of Land Management on the tough, controversial decisions they face.

To achieve these objectives the Governor's Office has created a Federal Forest Planning Team to evaluate each of the federal forest plans as it comes out and to propose a State alternative for each national forest. The 13 State agencies that are impacted by the forest plans are expected to provide assistance to the effort. To inform these assessments, the Governor's team is assembling aggregate data on the impact of forest management decisions on the economy and the environment -- for both private and government lands -- and identifying forest management practices that would enhance the value of the forestry resources for both the forest products industry and other users.

The State's desire for the national forests are that they be managed in an environmentally sound manner so that future generations have the same opportunities we do to enjoy the environmental, recreational, and aesthetic benefits the lands can provide while, to the greatest extent possible, producing a high, stable flow of economic benefits. The State alternatives must balance resource protection

and resource production, and correct any technical errors or assumptions in the planning analyses that affect resource outputs. Oregon faces difficult decisions, and it is important that the Governor present his best judgment on behalf of the state's interests.

### **Aggregate Assessments**

While the broad dimensions of the state's forest planning issues are fairly clear, there is a large amount of information that we do not have. Forecasts of the combined total harvests from private and government lands for various species are critical. Yet current estimates are rough and need to be updated. Oregon lacks a good aggregate assessment of the recreational, fish and wildlife, and water resources associated with forests, and the implications of different management policies for these resources and for the overall state economy. Finally, there remains much controversy about the implications of different harvest levels and levels of other forest outputs on employment in the state.

The State needs a study of the alternatives for transition of the forest products industry from the old growth timber on which it currently depends to the young growth timber of the future. This study should look not only at the implications of different possible transition strategies on the timber industry and its economic impact, but also the effect of the different alternatives on other economic outputs from the forest, including tourism and the quality of life. Fundamentally that study should answer the question of how can the old growth timber resources on public lands in Oregon make their most substantial contribution to Oregon's economic development in the short and long run?

### **Next Steps on Outdoor Recreation and Natural Resources**

- In future State budgets, priority should be provided for funds to maintain and upgrade facilities for state parks and fisheries programs.
- The Legislature should be encouraged to create a State Parks Department with its own parks commission.
- The State should develop and implement comprehensive plans for managing all federal and state scenic rivers.
- The Governor will continue to make recommendations on the National Forest Plans. The Governor's Office will propose additional funding for staffing the Forest Planning Team into the next biennium, through June of 1990.
- The Governor's Forest Planning Team will work with the relevant State agencies to ensure an aggregate assessment of the statewide timber, recreation, water and fishery resources provided by forests.

- The Governor's Forest Planning Team, working with State agencies and interested citizens, will identify opportunities for better utilization of the forests in Oregon to meet both forest products and environmental and recreational needs.
- The Economic Development Department will work with the tourism industry and the Division of Parks and Recreation to identify investments in public and private forest land that will increase the recreational and tourism potential of Oregon's forests such as construction of access roads, trails, campgrounds, and maintenance or enhancement of the scenic surroundings of key resorts and travel routes.
- The State should encourage a study to assess alternative strategies for the transition of the forest industry from old growth-based to young growth-based. That study should look broadly at the overall economic implications for the state of different scenarios for the use of the old growth forest resource.

### **3.3 PROTECTING AIR AND WATER QUALITY WHILE PROMOTING ECONOMIC GROWTH**

#### **WATER QUALITY ISSUES**

Oregon has made great progress over the past decades in cleaning and protecting its air and water. For example, the Willamette River was once an open sewer for industrial and residential wastes from Eugene to Portland. As recently as 1965, all swimming and other water contact sports were still prohibited. Today, the Willamette River is a jewel which provides abundant recreational opportunities for city and rural residents of the Willamette Valley. Similar progress has been made on other rivers and on improving air quality.

##### **Rivers**

While Oregon has made great strides in cleaning up its rivers, problems remain on a number of smaller rivers. In the past, water quality regulations required individual polluters to use the best available technology for pollution control. Today, the Federal Clean Water Act has established the concept of "total maximum daily load" (TMDL). This approach recognizes that a river can carry only so much pollution and therefore sets limits on the combined total load that all sources of pollution can place in the river. Individual best efforts are not enough; all sources of pollution must be considered together and managed cooperatively to insure that the river is not damaged by excessive pollution.

The Tualatin River is Oregon's first river to go through this federal process to determine TMDL limits and develop coordinated plans to improve water quality. Oregon's Department of Environmental Quality (DEQ) launched an intensive study of the Tualatin River in 1986, and in 1988 adopted new pollution standards and a schedule requiring plans and actions by many groups to improve the water quality of the Tualatin River by 1993.

Within the next four years, DEQ must undertake similar studies and potentially adopt regulations for more than ten additional rivers and lakes including the Yamhill River, South Umpqua River, Klamath River, Bear Creek, Coquille River, Umatilla River, and Grande Ronde River.

The experience with the Tualatin river illustrates how great the challenge is of meeting environmental quality goals while accommodating economic growth.

The Tualatin River Basin includes much of the fast growing Washington County area. In the 1980s, Washington County experienced dramatic growth in residential population and industrial development. The county's population increased from

246,000 in 1980 to 280,000 in 1987, growing at a rate almost six times faster than the Oregon average. This has put great pressure on the area's public services, particularly sewage treatment. Today, the Unified Sewage Agency, which provides waste water treatment services for all of Washington County, meets the strictest standards for waste water treatment in Oregon. However, even their best treatment efforts aren't sufficient when pollution from the many sources of a rapidly growing population and industrial base becomes more than the river can handle. As a result, water quality in the Tualatin River has deteriorated.

The recent rapid economic growth in Washington County has created this environmental problem. Continued development without addressing this water quality problem will reduce the quality of our environment and may precipitate legal action by the federal government or private interest groups. This could sharply curtail development in Washington County.

Addressing the problem and reducing pollution in the Tualatin River will help maintain an important element of the livability of Washington County. But this pollution reduction effort will require major new investments in waste water treatment services and impose additional controls and costs on development. This course of action would allow development to continue but, because of increased development and operating costs, may make the area noncompetitive for development and hamper further growth.

Because Washington County is one of Oregon's important engines for economic growth, the State, through DEQ, must work to coordinate local efforts which will meet the TMDL requirements for the Tualatin River while also allowing economic development to continue. As a result, the Unified Sewage Agency has already begun an expensive construction project to modify its treatment plants in 1989 to reduce the discharge of ammonia, a major pollutant. This will alleviate the ammonia problem but will increase the costs of sewage treatment services to all residential, commercial, and industrial properties in the area.

The solution to another major pollutant, phosphorus, is more complex because no single group is responsible. Waste water treatment plants, urban storm water runoff, and agricultural runoff all contribute to this problem. The DEQ has identified and is working with several groups which are developing plans to control phosphorus.

These efforts are dealing with the technical water quality issues. However, the broader and more difficult economic issues must also be addressed:

- What types of development will be allowed to proceed during the process of planning and implementing pollution controls?

- Will the effective control of these pollutants be sufficient to create a "growth margin" within the established TMDL which will then allow for further economic growth in the Tualatin River Basin?
- Who will pay for the necessary pollution controls and services?
- Will the costs of effective controls hamper further economic growth in the area?

The implementation of plans to clean up the Tualatin River must be carefully managed to insure that Oregon balances its dual desires for a quality natural environment and a competitive economic environment.

#### **Next Steps in Tualatin River Basin Water Quality and Application of the TMDL Process Elsewhere in Oregon**

- DEQ should continue to work with local public agencies and others to develop plans to further reduce and control pollution in the Tualatin River.
- DEQ should work with local groups to establish a comprehensive approach to analyze the direct and indirect costs associated with control and reduction of pollution in the Tualatin River and to allocate the costs equitably between industry and residences.
- DEQ should work with local planning and development agencies to monitor requests for new development and to assess the potential impacts of each on current and future water quality.
- DEQ should prepare a report on the application of the TMDL process in the Tualatin River Basin and the need to undertake similar studies elsewhere in Oregon. This report should be submitted to the Governor and Legislature with an analysis of the potential fiscal and development impacts on the state and the local areas yet to be studied.

#### **Groundwater**

Water is an essential human need. An adequate supply of clean healthy water for drinking, irrigation, and industrial uses is necessary for our social and economic survival.

In Oregon, over 40 percent of the population, more than one million people, depend upon groundwater as their primary source of water. Many other public water systems use groundwater as a back up supply and as a supplement to surface water supplies during summertime periods of high demand and low surface water availability. When these uses are included, over 70 percent of Oregon's people and



businesses depend upon groundwater for at least part of their water supply. The demands for groundwater in Oregon will increase in the future because our population and industrial base are growing and the summertime flow of many streams is inadequate to meet present and future needs. In addition, requirements of the federal Safe Drinking Water Act may increase reliance on groundwater, rather than surface water sources.

Groundwater supplies must be carefully managed, because if they become contaminated they must be replaced or treated. Hazardous materials have been spread all across our land and we are now awakening to the growing threat this is having on our public health -- particularly through our groundwater resources. Hazardous materials can seep into the ground and travel large distances threatening groundwater resources far from the site of the surface contamination. Because groundwater moves very slowly, the releases of hazardous wastes over the last one hundred years may jeopardize this resource for the next hundred or thousand years, unless we make concerted efforts to clean it up.

Efforts to clean-up contaminated groundwater are just beginning to get underway in Oregon. Therefore, it is difficult to estimate what these clean-up costs may be. The costs to treat contaminated groundwater supplies can easily double or triple water rates for public water supplies. Therefore, the availability and cost of groundwater to meet the demands of future Oregonians will depend largely on the efforts we undertake today to protect and maintain this priceless resource.

Even though Oregon's groundwater problems do not appear to be as serious as those elsewhere in the country, the development now of a comprehensive groundwater program will go a long way toward ensuring that serious groundwater problems do not occur in Oregon. Over the past three years, DEQ and other State agencies have become aware of the need to develop programs to effectively protect, conserve, and manage the state's groundwater resources. The consensus is that Oregon needs to stop being reactive to groundwater contamination and take charge of the issue by properly managing and disposing of hazardous wastes.

Passage of Oregon's Groundwater Protection Act of 1989, which has been introduced to the Oregon Legislature as SB 423, will move Oregon into a more effective long-term role of protecting, conserving, and managing the state's groundwater resources for the benefit of future Oregonians. The proposed Groundwater Protection Act focuses on addressing deficiencies in Oregon's existing groundwater protection programs; mainly, interagency coordination, assessment activities, and non-point sources.

The act emphasizes the development of non-regulatory programs to address groundwater concerns before they become critical problems. In Oregon, most

believe that traditional regulatory processes are the least effective way to protect groundwater. The Oregon approach will be basic research and public education coupled with implementation incentives.

Funding for implementation of the Groundwater Protection Act is contained in a separate piece of Oregon legislation, which would establish the Hazardous Substance and Groundwater Protection Fund. This fund would support activities in five agencies as well as provide grants for projects related to groundwater protection such as research, public education, demonstration projects, and incentive programs.

It can be stated with confidence that money invested in developing a preventative approach for groundwater protection and management today will yield enormous dividends in terms of resource availability for future generations.

#### **Next Steps on Groundwater Protection**

- DEQ should pursue passage of the Groundwater Protection Act, SB 423, which will establish interagency coordination of related existing programs, initiate basic research and public education, and provide implementation incentives.
- DEQ should pursue passage of Hazardous Substance and Groundwater Protection Fund, to create a permanent source of funding for Hazardous Waste management and groundwater protection programs.

## **AIR QUALITY ISSUES**

Under federal law, states must meet various air quality standards designed to protect environmental quality. Failure to attain federal standards can result in prohibitions on further development. In most areas, Oregon has satisfied federal standards. However, there are two pollutants that need to be addressed to assure that Oregon remains economically competitive while we work to preserve the state's environmental quality.

#### **Smog in Portland**

Ozone is a pungent, toxic, highly reactive form of oxygen often called smog. It is formed, generally on hot summer days, through a series of photochemical reactions between other pollutants, such as volatile organic compounds (VOC), and oxides of nitrogen. Ozone is usually recognized in the air by the dirty brown skies it causes. But it can also affect the respiratory system, reduce crop yields, and degrade a variety of materials including paint and fabrics.

While Oregon has attained the federal standards for ozone in most areas, the ozone air quality standard remains a problem for the Portland area. In the Portland area, ozone is primarily created by the operation of automobiles, the evaporative loss of gasoline at gas stations, and the use and emission of solvents in many manufacturing processes. Ozone sometimes makes Portland's sky a hazy brown, limiting views to Oregon's nearby mountains and generally reducing the quality of our environment.

Based on recent air monitoring data, DEQ believes the Portland area now meets the federal ozone air quality standard. However, the federal Environmental Protection Agency interprets the data differently and continues to designate the Portland area as a non-attainment area for ozone. EPA's position, if enforced, could result in more strict air pollution regulations and sanctions which would slow or halt economic development in the Portland area.

While the DEQ believes that Portland has met the ozone standard, even in the best case the margin of attainment is slim. The "VOC Growth Margin" program, managed by the DEQ to accommodate business growth in Portland, has been used up. Today, if a new or expanding business which creates VOC emissions wants to locate in the Portland area, it must create "emission offsets" or purchase existing emission rights from another business. This is a potentially time-consuming and costly process which will decrease the competitive position of the Portland area for business growth.

Oregon needs to take two actions regarding ozone. First, in order to avoid federal restrictions in the near term, Oregon should seek federal legislation to clarify that Portland is in attainment. More importantly, the State must seek ways to reduce ozone pollution further in order to improve air quality and to accommodate further economic growth.

To do this, Oregon should act to substantially reduce the current levels of VOC emissions from existing sources. We must create a new margin for growth between actual emissions and the maximum allowable emissions for the area. Such actions will improve air quality and create opportunities for continued economic growth in the Portland area.

There are two opportunities for significantly reducing total VOC emissions and providing margins for economic growth:

- Reducing the volatility of gasoline would decrease VOC vapor emissions from automobiles. Technology to reduce the volatility of gasoline is used in California and other states. The application of this technology in the Portland airshed would reduce total VOC emissions by 10 percent to 15 percent. The

trade-off would be a price increase of 1 or 2 cents per gallon at the pump.

- Control devices for service station gasoline pump nozzles would substantially reduce vapor emissions. Nozzle control devices are used in other states including California. Service station owners would be required to spend approximately \$1,000 per nozzle to install this vapor control system, increasing the cost of gasoline by about one-half cent per gallon.

The DEQ is investigating the possibilities of several other potential pollution control measures which could provide some immediate reductions in VOC emissions. One possible example is a low-cost program to require conservation vents on all underground gasoline storage tanks.

Combined, such pollution control measures will help the Portland metropolitan area attain the ozone standard and regain its clear skies and beautiful vistas. It would also re-establish an adequate growth margin to allow for new and expanding industry.

#### **Next Steps on Ozone**

- DEQ, through the Governor's Office, should urge Oregon's congressional delegation to introduce an amendment to the federal Clean Air Act which would clarify the meaning of attainment.
- DEQ should seek authority from the Environmental Quality Commission to pursue a program to reduce the volatility of fuel as a means of lowering VOC vapor emissions in the Portland area.
- DEQ should seek authority from the EQC to pursue a program requiring vapor control devices on the nozzles of all fuel pumps at service stations in the Portland area.

#### **Smoke in Southern Oregon**

In many parts of Oregon a haze develops in the skies which can affect our views to distant mountains, valleys, and plains. Although many people may first think of photochemical smog when they see a hazy skyline, in Oregon the haze is most often smoke coming primarily from residential wood burning stoves and fireplaces, silvicultural and agricultural burning, and wood products industry emissions. This burning releases tons of small particulate matter into the atmosphere causing a smokey screen which blocks distant views.

Southern Oregon communities face the most noticeable and severe smoke haze and particulate pollution problems, especially during the fall and winter when low wind speeds and temperature inversions keep wood smoke down in the valleys. A

national study of weather patterns by EPA in 1972 indicated that the interior valleys of southwest Oregon had among the poorest atmospheric ventilation in the country.

In 1987, the EPA adopted major revisions to the national clean air standards for particulate matter. The new federal standard, which must be met by the early 1990s, focuses on the very small, particulates that are most damaging to human health.

In Medford the daily standard for particulate concentrations is violated an average of 20 to 25 days each winter. In Klamath Falls the standard may be violated an average of 40 to 50 days each winter. Once in 1986, pollution levels in Klamath Falls reached more than 2.5 times the national standard, the worst particulate sample ever collected in Oregon. This unhealthful air pollution problem must be corrected to protect the health of Oregonians and to regain clear skies which are considered an important element of our quality natural environment.

Air pollution of this severity also has great potential to interfere with the economic development in areas experiencing this problem. If local organizations and the State do not make progress in addressing the particulate problem, federal measures may be imposed and economic development could be slowed or halted as a consequence. The EPA could withhold funds from Oregon and then prepare and implement a its own plan to reduce particulate air pollutants. It is expected that any such federal plan would incorporate sanctions such as a ban on new or expanded industrial sources of particulate pollutants. In addition, EPA could limit general economic growth of an area by withholding federal grants for sewage treatment plants.

The State recognizes the severe threat that particulate air pollution presents to public health and economic development and that meeting the federal requirements by the early 1990s presents a major challenge which local governments and the State must address. Several steps have already been taken toward solving this issue.

In Oregon, the recommended strategies for action will include a combination, in most cases, of residential control measures primarily involving reduction in wood smoke from stoves and fireplaces, and industrial control measures primarily involving wood products industries. Further restrictions or controls on grass seed field burning are also being considered. These combinations of control measures will require local ordinances, State rules, and interagency commitments.

The DEQ has drafted rules that would require better air pollution control of particulate emissions by wood products industries in the Medford, Grants Pass, and

Klamath Falls areas. Similar rules for the Eugene-Springfield area are being developed by the Lane Regional Air Pollution Authority (LRAPA). The most critical issue has been the difficulty in developing strategies to control air pollution from residential wood burning sources. Additional time has been needed to develop the necessary consensus and public support for controversial wood heating control strategies. The DEQ is currently coordinating and negotiating these strategies with the Legislature and local governments.

To establish a comprehensive State strategy to meet the federal particulate air quality standards by the federally required deadline in the early 1990s, DEQ has submitted to the 1989 Oregon Legislature a multi-point concept to address controlling residential wood heating. This concept proposes new heating system tax credits, establishes opacity standards, and requires local government adoption of mandatory curtailment strategies if voluntary compliance is not achieved. A special tax assessment on wood stove sales is proposed to finance an education component of this strategy.

It is expected that the La Grande area will soon be classified as a problem area by the EPA based on current airborne particulate monitoring. DEQ intends to use its experiences in Southern Oregon in designing similar strategies for La Grande and any other area subsequently designated as unhealthful.

Oregon now has a direction and a strategy for dealing with the state's serious particulate air quality problems. This strategy will modify some industrial control standards but will focus on the principal cause -- residential wood burning. However, the success of this strategy will depend on the State's release of the low-income assistance funds and adoption of the DEQ comprehensive strategy. It will be even more important for local governments to promptly adopt effective voluntary residential wood heating pollution control plans and a clear commitment for more stringent mandatory requirements if voluntary residential control plans do not work.

#### **Next Steps on Particulates**

- DEQ will submit to the 1989 Oregon Legislature legislation to control residential wood heating particulate emissions in Southern Oregon and other areas of the state. The adopted legislation should include new heating system tax credits, establish opacity standards, and require local government adoption of mandatory curtailment strategies if voluntary compliance is not achieved.
  
- DEQ will need to work with local authorities to develop local wood burning control strategies. The complexity and difficulty of developing and adopting local plans has slowed the process toward establishing a comprehensive state

strategy to meet this federal particulate air quality standard.

## **HAZARDOUS WASTE MANAGEMENT AND REDUCTION**

### **Hazardous Waste Contaminated Site Clean-Up**

In the past, hazardous wastes were often disposed of in ways that are now known to endanger public health and the environment. Today, unintentional leaks and spills of hazardous wastes continue to occur which also contribute to the pollution of our environment. Unless these substances are properly contained or removed, they can seep into ground and surface waters, threatening resources far from where they were originally placed. These hazardous wastes can also escape into the air as vapors or dust and create air pollution.

In addition to the negative impacts on our environment, hazardous waste contaminated sites are a legal and economic liability to the land owner and the site operator. These liabilities can limit the use of the site and its value in the marketplace. While it is important that our society seeks legal powers and technical tools to clean-up contaminated sites, this has created new uncertainties in the sale, purchase, and use of our lands - particularly older industrial sites.

In Oregon, hundreds of sites contaminated with hazardous waste exist throughout the state. These sites range from industrial areas with general on-site contamination or leaking underground storage tanks to residential areas and ground water aquifers affected by migrating hazardous wastes. The federal Superfund program, established in 1980, is involved with thousands of contaminated sites nationwide, but only eight sites in Oregon have been identified for assistance under the Superfund. Oregon's remaining sites do not rank high enough to be listed as a national priority and qualify for federal funds. However, the control of these released hazardous wastes and the cleanup of these sites are just as important for the protection of Oregon's environment and to allow the best possible utilization of these sites.

The 1987 Oregon Legislature responded to the need to cleanup all of our contaminated sites by enacting Senate Bill 122, Oregon's State Superfund Law. This law, which is implemented by Oregon's Department of Environmental Quality (DEQ), establishes a comprehensive statewide program to identify, investigate, and clean up releases of hazardous wastes in the environment. Oregon is one of only 20 states with such a law.

Oregon's new environmental clean up law and rules have been developed to complement the federal Superfund program by ensuring that all contaminated sites

in the state are properly identified and adequately dealt with. It is known that required site clean ups under Oregon's law will range from simple removals of surface soils from small sites to complex removals of many toxic substances from large ground water sources of drinking water. Consequently, DEQ has adopted a flexible framework of rules for investigation and cleanup which can be tailored to the particular characteristics of each site. The rules establish broad criteria for DEQ to determine the best level of site cleanup and the most appropriate remedial action.

The first task under Oregon's environmental cleanup law has been to determine the extent of the problem by locating and identifying the hazardous waste contaminated sites in the state. DEQ has only identified 325 potentially contaminated sites to date. California already has 10,000 sites on their list. New Jersey has 9,000 sites on its list.

Oregonians are also concerned about insuring that government programs will maintain and promote our economic growth. In this program, the DEQ staff already has been working with many land owners and site operators to identify contaminated sites and offering technical assistance to initiate cleanup efforts. However, property owners of 210 of the 325 proposed sites have appealed DEQ's action to place their sites on the State's Inventory of Confirmed Releases. This has created an unanticipated problem for DEQ. These appeals present a huge contested case workload which will pull DEQ resources away from the primary goals of Oregon's State Superfund Law. Therefore, DEQ, in concert with the public interest groups and industry associations has proposed legislation to modify the public inventory listing and appeal process while maintaining the important site identification and clean up efforts.

This is still a very new program. There are and will be several outstanding issues which need to be addressed and resolved to insure that this program does not impede or misdirect Oregon's economic growth. For example, how will priorities be set to determine and assist those sites most needing cleanup? How will DEQ and the State of Oregon assist land owners and site operators deal with the real or imagined "cloud of uncertainty" which will attach itself to any identified or potentially identified sites? Will development pressures increase on "greenfields" while older industrial areas become under utilized or even unsalable? Although there may not be answers yet to these issues, it is important that the State seek answers to these questions and other broad issues which impinge upon Oregon's opportunities for economic growth.



## **Toxins Reduction**

While Oregon has made significant progress in the treatment, clean-up, and disposal of hazardous wastes, we must still address the more basic need of reducing the use of toxic chemicals and the creation of hazardous waste.

A growing number of companies recognize that it is in their best financial interests to reduce the amount of toxic chemicals they use and hazardous waste they generate. Companies which have implemented hazardous waste reduction programs benefit by reducing the amount of hazardous materials they buy, reducing the costs for the waste they need to dispose of, and limiting their liability for any accidental spills or releases. The challenge is how to get all companies which generate hazardous waste to be aware of the potential benefits and to approach the problem in a similar fashion. Reducing use of toxic chemicals and the amount of hazardous waste generated is a certain way to prevent pollution.

In 1987, the Oregon Legislature added provisions for waste reduction to the State's hazardous waste management statutes as part of Oregon's program to implement the federal mandates for waste reduction. Now, Oregon's Department of Environmental Quality (DEQ) has the authority to require generators to minimize the amount of hazardous waste generated and it initiated a waste reduction technical assistance program in the 1987-1989 biennium. But DEQ has found that this limited technical assistance program is not enough.

DEQ introduced HB 2483 to the 1989 Legislature. This bill requires all generators to develop hazardous waste reduction plans and requires the DEQ to provide them with the technical assistance they need to develop workable and effective plans. This program will be goal-oriented rather than paperwork-intensive. Some of the major barriers to accomplishing waste reduction are the lack of business awareness of the possibilities and the lack of a requirement that causes generators to invest the time and money to investigate and implement waste reduction options. The DEQ program proposed in HB 2483 is designed to overcome these barriers.

Superfund site clean up, technical assistance for private clean ups, toxins and hazardous waste reduction all cost money. So far funding has come primarily from a tipping fee at the hazardous waste disposal site in Arlington. As landfill disposal of such wastes is restricted, this fee revenue will not support the program. A new revenue source is needed. DEQ introduced legislation in the 1989 session to create a \$12.5 million Hazardous Substance and Groundwater Protection Fund. Revenue for the fund would be generated from fees charged to first possessors of certain chemicals.

### **Next Steps on Hazardous Waste**

- DEQ should pursue legislation to modify the public inventory listing and appeal process for the Hazardous Waste Contaminated Sites. This legislation should provide for some method to identify and track these sites but focus on directing public and private efforts towards the required clean-up.
- DEQ should establish a ranking and priority system to clearly focus its limited resources on the most critical hazardous waste contaminated sites.
- DEQ should increase its information services to the development community to address the real and imagined issues this program creates for business development.
- DEQ should pursue passage of the Hazardous Waste Reduction Program, HB 2483, which will require all Hazardous Waste generators to implement waste reduction plans and will expand DEQ's authority and abilities to offer technical assistance to business when developing these plans.
- DEQ should pursue passage of Hazardous Substance and Groundwater Protection Fund, HB 2176, to create a permanent source of funding for Hazardous Waste management and groundwater protection programs.

## **3.4 STREAMLINING ENVIRONMENTAL REGULATORY PROCESSES**

In order to protect the environment without unduly burdening business, Oregon must make its regulatory processes understandable and reasonably predictable. Some of the industry committees expressed concern about the complexity and overlapping authority of the regulatory process. (See, for example, the Metals Industry Strategic Plan). In this section, some specific steps to improve the regulatory processes are presented.

The process of environmental regulation in any state is complex, by necessity. To assist businesses in dealing with regulatory issues, the State has created a business advisory team chaired by the Economic Development Department and represented by agency deputies from all key agencies to address specific business problems that arise, and to assure coordination. To address the general concern that there may be too much overall confusion, that team should select several businesses, and review the various environmental regulations affecting them with an eye to simplify permit processes. Specifically, the group should meet with the Metals Industry Committee to review its suggestions for process improvements.

## **Land Use Regulations**

Oregon has a long history of protecting the environment and providing for orderly development. The first State legislation for land use planning in Oregon was passed in 1919. Oregon's nationally recognized statewide land use planning program was begun in 1973 and has been revised five times through legislative amendments, most recently in 1985. The basic legislation required all Oregon cities and counties to prepare and adopt comprehensive plans that meet the 19 Statewide Planning Goals. By 1986, the State had approved land use plans for each city and county.

Oregon's comprehensive land use planning system has worked so well that it has been identified as an "Outstanding Land Use Program in the Nation" by the American Planning Association. Oregon's land use system is widely and correctly credited for protecting open spaces, and preserving Oregon's environmental amenities. The system has worked equally well to assure a predictable supply of affordable land for housing and for industrial and commercial development. Many rapidly growing regions without comprehensive land use planning are finding that the sum of individual city zoning plans are unable to meet housing and industrial growth needs, resulting in skyrocketing prices for housing and industrial land. Because of our comprehensive land use planning system, Oregon is better positioned to assure that adequate land is available as the state grows.

There are three key issues within the land use planning system which need to be addressed to assure that businesses can continue to locate and expand easily in Oregon. First, there are continuing requests from business for improved assistance with the permit approval processes to obtain a change in land use and lengthy appeal processes which may follow. Second, development is being constrained by the increased enforcement of state and federal laws controlling development on previously unidentified wetlands. Finally, there is a need for a review, in conjunction with other transportation and infrastructure planning, of the system's ability to adequately respond to and accommodate the projected growth needs of the state, an issue which is addressed in an earlier section of this chapter.

Most business people are well aware that Oregon has a comprehensive statewide land use planning program. Some conclude, incorrectly, that the State has taken over land use planning; that it operates a statewide plan. While the State reviews local plans based on statewide goals, it does not prepare a statewide plan; nor does it administer or issue land use permits needed by business for development. Cities and counties retain these responsibilities. This misunderstanding about the process can create confusion and tension between businesses and the state and local agencies involved in land use permits.

Local governments and the State can streamline the permit system and

communicate requirements more clearly to businesses. The Department of Land Conservation and Development has recently reviewed many elements of the local permitting process and has prepared a guide for use by cities and counties to evaluate and streamline their permitting systems.

The State has begun to improve and extend a centralized permit information system which will provide any person with a single point of contact to obtain siting assistance, basic information on needed permits, and the appropriate local, state, or federal administering agency. This system is maintained in the Economic Development Department and should be fully operationally in late 1989.

To provide for consistent and timely appeal decisions on land use matters, Oregon has a uniform statewide appeals process. Oregon is the only state which mandates timeliness of no more than 120 days for decisions from the local agency, the Land Use Board of Appeals, and the State Court of Appeals. Now DLCD is recommending further improvements to the appeals process to limit some of the uncertainties that arise in the current system.

The DLCD has introduced two legislative changes for the 1989 session which will provide clearer standards for appeal reviews and give some predictability to the issues raised on appeal. The first recommendation is a requirement that litigants involved in appeals must have previously participated in local reviews and decisions. The second recommendation is a requirement that issues raised in appeals must have been previously addressed in local reviews and decisions.

### **Wetlands Regulations**

Water resources are important to local communities, to business development, and to the maintenance of our natural environment and high quality of life. The importance of water resources have been recognized in several Oregon laws including the Oregon Removal-Fill Law which regulates removal and fill of material in waters of the state. Wetlands, like lakes and rivers, are subject to this law. This program is administered by the Division of State Lands (DSL) which has the responsibility to review applications and issue permits. The enabling legislation, adopted in 1967, requires DSL when making a determination on issuing a permit to focus on the natural resource issues.

Separate from the State's land use system, the Army Corps of Engineers and other federal agencies are responsible for the protection of the state's wetlands under the federal Clean Water Act. The Corps historically has granted permits when a land owner proposes construction, rather than reviewing land comprehensively in advance and designating appropriate development for it. Wetlands permits therefore can impede property development that is otherwise zoned for commercial or industrial use.

Because the location of wetlands and the law itself are not well known, cities and counties have unknowingly designated wetlands for development in many comprehensive plans. In a number of cases, this has led permit applicants and issuers to believe that they have fulfilled all land use permit requirements, only to be delayed or denied by wetlands permitting requirements. The difficulty of identifying wetlands and the requirement of obtaining other state and federal permits is a growing issue in regulating Oregon's land use.

In some cases, development allowed by the acknowledged plan has been thwarted by the DSL's refusal to issue a wetlands permit.

The potential designation of sites as wetlands creates uncertainty about the ability to develop many sites now zoned for industrial and commercial use. Such uncertainty undermines Oregon's efforts to provide predictability about where new industrial and commercial developments can locate.

This potential conflict between wetland conservation and economic development is becoming a major problem. However, two key problems have been identified. First, the extent and location of wetlands across the state is unknown. Identification of wetlands, which is difficult enough in itself, is made even more difficult by inconsistent definitions. Second, the permitting process for wetlands is uncoordinated. Permits are often required from the U.S. Army Corps of Engineers and the State's Division of State Lands (DSL) which have permitting procedures that are not compatible with the comprehensive plan process administered by DLCD. The DSL has no requirement or ability to provide assistance to local planning agencies or to provide advance comments to a potential developer before a formal permit request is submitted.

What is needed immediately is a comprehensive statewide inventory of wetlands, an assessment of their potential for protection or development, and a coordinated permitting process which will give some authority for decisions to the local planning agencies who are responsible for other land use decisions under their adopted comprehensive plans.

DSL has coordinated an advisory group that has clarified the issues and fashioned a comprehensive program to deal with wetland development. Several elements of this program have been submitted to the Legislature in the 1989 session:

- Identify the necessary authority and funding to undertake a statewide wetlands inventory.
- Require the use of a single definition and delineation standard for wetlands.

- Require coordination between the DSL, DLCD, and local planning officials.
- Develop a planning and approval process to allow DSL to recognize local planning decisions.

In addition there are other elements of this program which require administrative action:

- DSL should provide direct assistance to local planning agencies dealing with specific development requests.
- DSL should work with the Corps of Engineers and DLCD to implement Wetland Conservation Plans. Such plans will determine the importance of specific wetlands and will provide for local wetlands management as well as approvals for appropriate developments.
- DLCD should amend its Goal #5 to recognize the new Wetland Conservation Plan program and the local Wetland Conservation Plans.

#### **Next Steps in the Regulatory Process**

- The Economic Development Department will initiate operation of a new centralized permit information system in late 1989.
- The Department of Land Conservation and Development should pursue legislative changes which will provide clearer standards for land use appeal reviews and give better predictability on the issues raised on appeal.
- The Division of State Lands should pursue legislative approval of a comprehensive program to deal with wetland development. Specifically this program will:
  - Identify the necessary authority and funding to undertake a statewide wetlands inventory.
  - Require the use of a single definition and delineation standard for wetlands.
  - Require coordination between the DSL, DLCD, and local planning officials.
  - Develop a planning and approval process to allow DSL to recognize local planning decisions.