

Department of State Lands  
775 Summer Street, Suite 100  
Salem, OR 97301-1279  
☎ 503-986-5200

Permit No.:	<u>37712-RF Modified</u>
Permit Type:	<u>Removal/Fill</u>
Waterway:	<u>Coos Bay</u>
County:	<u>Coos</u>
Expiration Date:	<u>December 21, 2016</u>

**OREGON INTERNATIONAL PORT OF COOS BAY**

**IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE ATTACHED COPY OF THE APPLICATION, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:**

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action, which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. Employees of the Department of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
6. Any permit holder who objects to the conditions of this permit may request a hearing from the Director, in writing, within twenty-one (21) calendar days of the date this permit was issued.
7. In issuing this permit, the Department of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390, and related administrative rules.
8. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.
9. Authorization from the U.S. Army Corps of Engineers may also be required.

**NOTICE:** If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 to 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Department of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Department of State Lands, 503-986-5200.

Louise Solliday, Director  
Oregon Department of State Lands

  
**Authorized Signature**

December 29, 2011  
**Date Issued**

## ATTACHMENT A

**Permit Holder: Oregon International Port of Coos Bay**

**Project Name: Oregon Gateway Marine Terminal**

**Special Conditions for Removal/Fill Permit No. 37712-RF**

### **READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT.**

The project site may be inspected by the Department of State Lands (DSL) as part of our monitoring program. DSL has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. **Responsible Party:** By proceeding under this permit, Oregon International Port of Coos Bay agrees to comply with and fulfill all terms and conditions of this permit. Oregon International Port of Coos Bay is responsible for carrying out the terms and conditions of this permit unless the permit is officially transferred to another party as approved by DSL.
2. **Authorization to Conduct Removal and/or Fill:** The first phase of construction of the marine terminal is to be excavated in uplands, this includes the eastern berth, western berth, and tug berth, all of which will be constructed entirely in uplands and do not require authorization. This permit authorizes placing up to 8 concrete pilings (2 dolphins) and removing 1.75 million cubic yards of material to construct an access channel to the marine terminal in T25S R13W Section 8, Coos Bay, Coos County, placing dredge spoil in a less than 0.1 acre non-tidal wetland and constructing compensatory non-tidal wetland, mudflat and eelgrass mitigation, as described in the attached permit application, map and drawings. In the event information in the application conflicts with these permit conditions, the permit conditions prevail. No impacts are authorized to the Henderson Marsh wetlands as part of this project, these areas shall be protected as avoided wetlands.
3. **Work Period in Jurisdictional Areas:** Fill or removal activities below the highest measured tide line elevation of Coos Bay shall be conducted between October 1 and February 15, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL.
4. **Method of Piling Placement:** Pilings must be placed by means of impact or vibratory methods or removed (to the extent regulated as material pursuant to OAR 141-085-0010(125)) by means of vibratory method only.
5. **Sound Reduction:** Sound reduction measures, such as vibration dampeners and bubble curtains, shall be used during piling installation.
6. **Creosote Prohibited:** There shall be no wood products treated with creosote or other leachable preservatives in the new structure.

7. **Authorization to Conduct Compensatory Mitigation:** This permit also authorizes removal and fill activities necessary to complete the required compensatory mitigation at the Port's freshwater mitigation site, the eelgrass mitigation site, and the Kentuck Golf Course intertidal mitigation sites.
8. **Changes to the Project or Inconsistent Requirements from Other Permits:** It is the permittee's responsibility to ensure that all state, federal and local permits are consistent and compatible with the final approved project plans and the project as executed. Any changes made in project design, implementation and/or operating conditions to comply with conditions imposed by other permits must be approved by DSL prior to implementation.
9. **DSL May Halt or Modify:** DSL retains the authority to temporarily halt or modify the project in case of unforeseen damage to natural resources.
10. **DSL May Modify Conditions Upon Permit Renewal:** DSL retains the authority to modify conditions upon renewal, as appropriate, pursuant to the applicable rules in effect at the time of the request for renewal or to protect waters of this state.

#### **General Construction Conditions**

11. **Water Quality Certification:** The Department of Environmental Quality (DEQ) may evaluate this project for a Clean Water Act Section 401 Water Quality Certification (WQC). If the evaluation results in issuance of a Section 401 WQC, that turbidity condition will govern any allowable turbidity exceedance and monitoring requirements.
12. **Erosion Control Methods:** The following erosion control measures (and others as appropriate) shall be installed prior to construction and maintained during and after construction as appropriate, to prevent erosion and minimize movement of soil into waters of this state.
  - a. All exposed soils shall be stabilized during and after construction in order to prevent erosion and sedimentation.
  - b. Filter bags, sediment fences, sediment traps or catch basins, leave strips or berms, or other measures shall be used to prevent movement of soil into waterways and wetlands.
  - c. To prevent erosion, use of compost berms, impervious materials or other equally effective methods, shall be used to protect soil stockpiled during rain events or when the stockpile site is not moved or reshaped for more than 48 hours.
  - d. Unless part of the authorized permanent fill, all construction access points through, and staging areas in, riparian and wetland areas shall use removable pads or mats to prevent soil compaction. However, in some wetland areas under dry summer conditions, this requirement may be waived upon approval by DSL. At project completion, disturbed areas with soil exposed by construction activities shall be stabilized by mulching and native vegetative plantings/seeding. Sterile grass may be used instead of native vegetation for temporary sediment control. If soils are to remain exposed more than seven days after completion of the permitted work, they shall be covered with erosion control pads, mats or similar erosion control devices until vegetative stabilization is installed.

- e. Where vegetation is used for erosion control on slopes steeper than 2:1, a tackified seed mulch shall be used so the seed does not wash away before germination and rooting.
- f. Dredged or other excavated material shall be placed on upland areas having stable slopes and shall be prevented from eroding back into waterways and wetlands.
- g. Erosion control measures shall be inspected and maintained as necessary to ensure their continued effectiveness until soils become stabilized.
- h. All erosion control structures shall be removed when the project is complete and soils are stabilized and vegetated.

13. **Hazardous, Toxic, and Waste Material Handling:** Petroleum products, chemicals, fresh cement, sandblasted material and chipped paint, wood treated with leachable preservatives or other deleterious waste materials shall not be allowed to enter waters of this state. Machinery refueling is to occur at least 150 feet from waters of this state and confined in a designated area to prevent spillage into waters of this state. Barges shall have containment system to effectively prevent petroleum products or other deleterious material from entering waters of this state. Project-related spills into waters of this state or onto land with a potential to enter waters of this state shall be reported to the Oregon Emergency Response System (OERS) at 1-800-452-0311.
14. **Federally Listed Endangered or Threatened Species:** When listed species are present, the authorization holder must comply with the Federal Endangered Species Act. If previously unknown listed species are encountered during construction, all construction activity shall immediately cease and the permit holder must contact DSL.
15. **Archaeological Resources:** If any archaeological resources and/or artifacts are encountered during construction, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-986-0674).
16. **Hazards to Recreation, Navigation or Fishing:** The activity shall be timed so as not to interfere with or create a hazard to recreational or commercial navigation or fishing.
17. **Work Area Isolation:** The work area shall be isolated from the water during construction according to the Work Area Isolation Plan contained in the application. All structures and materials used to isolate the work area shall be removed immediately following construction and water flow returned to pre-construction conditions.
18. **Temporary Ground Disturbances:** All temporarily disturbed areas shall be returned to original ground contours at project completion, as proposed in the Site Restoration Plan in the application.
19. **Fish Passage Required:** The project shall meet Oregon Department of Fish and Wildlife requirements for fish passage.

**Dredged Material Disposal (DMD) Site Conditions**

- 20. **Jordan Cove Energy Project Stockpile Site:** Site is proposing to handle 0.5 million cubic yards of materials. No wetland impacts are authorized at this DMD site. The avoided wetlands on this DMD site shall be protected by silt fencing or other appropriate methods to prevent inadvertent impacts.
- 21. **Linerboard Stockpile Site:** Site is proposing to handle 1.8 million cubic yards of materials. No wetland impacts are authorized at this DMD site. The avoided wetlands on this DMD site shall be protected by silt fencing or other appropriate methods to prevent inadvertent impacts.
- 22. **Port Stockpile Site:** Site is proposing to handle 3.3 million cubic yards of materials, including 4700 cubic yards of fill in 0.1 acres of PEM wetland. On-Site mitigation is proposed creating 0.15 acres of wetland. No additional wetland impacts are authorized as part of this DMD site. The avoided wetlands on this DMD site shall be protected by silt fencing or other appropriate methods to prevent inadvertent impacts.

**Compensatory Wetland Mitigation**

The following conditions apply to the compensatory wetland mitigation actions proposed in the application Mitigation Plan dated December 2011.

The following conditions apply to the Freshwater Mitigation Acreage:

- 23. **Freshwater Mitigation Acreage and Type of Compensatory Mitigation:** Mitigation shall be conducted according to the acreages and methods described in the table below.

Acres	Cowardin/HGM Class	Method
Authorized Impacts		
0.1	Palustrine emergent Depressional/closed permanent (HGM)	
Required Mitigation		
0.15	Palustrine emergent Depressional/closed permanent (HGM)	creation

- 24. **Freshwater Mitigation Site Location:** Mitigation shall be conducted on-site. The center-point of the mitigation site is 43.4055, -124.2876. The current legal description is Township 25S, Range 13W, Section 18, Tax Lot 102 & 200 as shown on Figures 1 and 4 of the mitigation plan.
- 25. **Timing of Mitigation Site Grading:** Mitigation site grading shall be completed prior to or within the same construction season as the commencement of the wetland fill activity.
- 26. **Signs Required:** Signs shall be posted around the mitigation site perimeter stating that the area behind the sign is a protected wetland mitigation site.

27. **Long-term Maintenance Required (see OAR 141-085-0705(1)(j)):** Long-term site maintenance will be provided by Oregon International Port of Coos Bay unless or until transferred according to OAR 141-085-0585 (8). A long term management plan (i.e., beyond the initial performance monitoring period) acceptable to DSL shall be prepared and approved by DSL prior to the initiation of any work.

**The following conditions apply to the Eelgrass Mitigation Acreage:**

28. **Eelgrass Mitigation Acreage and Type of Compensatory Mitigation:** Mitigation shall be conducted according to the acreages and methods described in the table below.

Acres	Cowardin/HGM Class	Method
Authorized Impacts		
2.43	Estuarine unconsolidated shore Estuarine fringe embayment (HGM)	
Required Mitigation		
7.3	Estuarine unconsolidated shore Estuarine fringe embayment (HGM)	restoration

29. **Eelgrass Mitigation Site Location:** Mitigation shall be conducted off-site across the bay from the impacts. The center-point of the mitigation site is 43.4104, -124.2636. The current legal description is Township 25S, Range 13W, Section 08 as shown on Figures 1 and 2 of the mitigation plan.

30. **Timing of Mitigation Site Grading:** Mitigation site grading shall be completed prior to or within the same construction season as the commencement of the in-bay dredging activities.

31. **Work Period in Jurisdictional Areas:** Fill or removal activities below the highest measured tide line elevation of Coos Bay shall be conducted between October 1 and February 15, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL.

32. **Signs Required:** Floating signs or buoys shall be posted around the mitigation site perimeter stating that the area behind the sign is a protected eelgrass mitigation site, no anchoring.

33. **Long-term Protection of the Eelgrass Mitigation Site - Conservation Easement:** The mitigation site shall be protected in perpetuity by conveying an approved Conservation Easement to a qualifying party pursuant to ORS Chapter 271. There shall be no wetland impacts until the approved Easement is recorded with Coos County. A copy of the recorded easement must be sent to the Department with the post-construction report. A long term management plan (i.e., beyond the initial performance monitoring period) acceptable to DSL shall be prepared and approved by DSL prior to the initiation of any work.

**The following conditions apply to the Intertidal and Advance Mitigation Acreage:**

**34. Intertidal and Advance Mitigation Acreage and Type of Compensatory Mitigation:**

Mitigation shall be conducted according to the acreages and methods described in the table below.

Acres	Cowardin/HGM Class	Method
Authorized Impacts		
10.47	Estuarine unconsolidated shore Estuarine fringe embayment (HGM)	
0.59	Palustrine emergent Flats (HGM)	
Required Mitigation		
33.18	Estuarine unconsolidated shore Estuarine fringe embayment (HGM)	enhancement
Advance Mitigation		
10.42	Estuarine unconsolidated shore Estuarine fringe embayment (HGM)	enhancement

**35. Intertidal and Advance Mitigation Site Location:** Mitigation shall be conducted off-site. The center-point of the mitigation site is 43.4235, -124.1836. The current legal description is Township 25S, Range 13W, Section 1D Tax Lot 400, and Section 12A Tax Lot 100 as shown on Figures 1 and 3 of the mitigation plan.

**36. Timing of Mitigation Site Grading:** Mitigation site grading shall be completed prior to or within the same construction season as the commencement of the in bay dredging activities.

**37. Work Period in Jurisdictional Areas:** Estuary fill or removal activities below the highest measured tide line elevation of Coos Bay shall be conducted between October 1 and February 15, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL.

**38. Work Period in Jurisdictional Areas:** Fill or removal activities in Kentucky Slough and within the boundaries of the mitigation site shall be conducted between July 1 and September 15 prior to connection with the estuary, unless otherwise coordinated with Oregon Department of Fish and Wildlife and approved in writing by DSL.

**39. Signs Required:** Signs shall be posted around the mitigation site perimeter stating that the area behind the sign is a protected wetland mitigation site.

40. **Long-term Protection of the Mitigation Site (privately owned site) - Deed Restriction:** The mitigation site shall be protected in perpetuity by recording the Deed Restrictions approved by the Department. There shall be no wetland impacts until the approved Deed Restrictions are recorded with Coos County. A copy of the recorded instrument must be sent to the Department with the post-construction report. The deed restriction is in lieu of public ownership of the mitigation site. If the Port of Coos Bay provides proof of ownership prior to commencement of the project, a deed restriction is no longer required and a long term management plan will replace the deed restriction and provide administrative protection for the site, See Condition 41). A long term management plan (i.e., beyond the initial performance monitoring period) acceptable to DSL shall be prepared and approved by DSL prior to the initiation of any work.
41. **Publicly Owned Mitigation Sites - Administrative Protection:** For publicly owned mitigation sites, administrative protection shall be provided through an adopted management plan. The long term management plan shall provide appropriate protection of the mitigation site in perpetuity.
42. **Long-term Maintenance Required (see OAR 141-085-0705(1)(j)):** Long-term site maintenance will be provided by Oregon International Port of Coos Bay unless or until transferred according to OAR 141-085-0585 (8).
43. **Advance Mitigation Credits:** The Oregon International Port of Coos Bay proposes enhancing an additional 10.42 acres of estuarine high marsh habitat which could generate 3.47 acre-credits of advance mitigation credit. These credits may only be used for future impacts where the Port of Coos Bay or Veresen, Inc. (or any of its affiliates) are the applicant for a permit and may not be sold on the open market. Future applications proposing use of the advance mitigation credit must comply with all applicable DSL statutes and administrative rules relating to the removal-fill program at the time of application. Future applications should identify the specific area within the mitigation area that will be used to compensate for each permitted impact, and these areas should be clearly and permanently marked on the ground.

### **Monitoring and Reporting Requirements**

44. **Post-Construction Report Required:** A post-construction report demonstrating as-built conditions and discussing any variation from the approved plan shall be provided to the Department within 90 days of mitigation site grading for each of the three mitigation projects. The post-construction report shall include:
- a. A scaled drawing, accurate to 1-foot elevation, showing the finished contours of the mitigation site.
  - b. A narrative that describes any deviation from the approved mitigation plan.
  - c. A copy of the recorded deed restriction or conservation easement.

- 45. Term of Monitoring; Annual Monitoring Reports Required:** The permittee shall monitor the mitigation sites to determine whether the mitigation site is meeting performance standards for a minimum period of 5 growing seasons after completion of all the initial plantings, except for the eelgrass mitigation area which will be monitored for ten years. Annual monitoring reports are required for each of the three mitigation projects. Reports should clearly separate information for advance mitigation areas that are unassigned as compensatory mitigation for any permit. Permits that authorize the use of advance mitigation credits prior to final determination of success by the Department will require additional monitoring and financial security under the future permit conditions. For advance mitigation credits proposed for use after the monitoring period has ended, future applications must provide a current year monitoring report to show that the proposed mitigation area continues to meet the performance standards established in this permit.
- 46. Annual Monitoring Report Due Date:** Annual monitoring reports are due by December 31 of each year for each of the three mitigation projects.
- 47. Extension of the Monitoring Period:** The monitoring period may be extended for any of the three mitigation projects, at the discretion of the Department, for failure to provide monitoring reports, failure of the mitigation site to meet performance standards for two consecutive years or when needed to evaluate re-planting or other corrective or remedial actions.
- 48. Release of Mitigation Obligation:** Mitigation monitoring is required until DSL has officially released the site from further monitoring.
- 49. Failure to Submit Monitoring Reports:** Failure to submit the required monitoring report by the due date may result in an extension of the monitoring period and/or enforcement action.
- 50. Contents of the Annual Monitoring Report:** The annual monitoring report shall include the following information:
- a. Completed Monitoring Report Cover Sheet, which includes permit number, permit holder name, monitoring date, report year, performance standards, and a determination of whether the site is meeting performance standards.
  - b. Impact and mitigation site location map(s).
  - c. A brief narrative that describes maintenance activities and recommendations to meet success criteria.
  - d. Mitigation site map showing permanent plot locations that correspond to the data collected and fixed photo-points.
  - e. Data collected to support the conclusions related to the status of the site relative to the performance standards listed in this permit (include summary/analysis in the report and raw data in the appendix).
  - f. Photos from fixed photo points (include in the appendix).
  - g. Other information necessary or required to document compliance with the performance standards listed in this permit.
  - h. A post-construction functional assessment by the end of the monitoring period.

51. **Corrective Action May be Required:** The Department retains the authority require corrective action in the event the performance standards are not accomplished at any time within the monitoring period.

### Performance Standards

**To be deemed successful, the freshwater mitigation area shall meet the following performance standards, as determined by DSL:**

52. **Establishment of Permanent Monitoring Locations Required:** Permanent plot locations must be established during the first annual monitoring in sufficient number and locations to be representative of the site. The permanent plot locations must be clearly marked on the ground.
53. **Wetland Acreage Required:** The CWM site will have a minimum of 0.15 acres of palustrine emergent, depression/closed permanent (HGM) wetland as determined by a wetland delineation, as specified by the Department, during spring of a year when precipitation has been near normal, vegetation has been established, and irrigation has been removed for at least two years.
54. **Native Species Cover:** The cover of native species, as defined in the USDA Plants Database, in the herbaceous stratum is at least 60%.
55. **Invasive Species Cover:** The cover of invasive species is no more than 10%. A plant species should automatically be labeled as invasive if it appears on the current Oregon Department of Agriculture noxious weed list, plus known problem species including *Phalaris arundinacea*, *Mentha pulegium*, *Holcus lanatus*, *Anthoxanthum odoratum*, and the last crop plant if it is non-native. Non-native plants should be labeled as such if they are listed as non-native on the USDA Plants Database. Beginning in Year 2 of monitoring, DSL will consider a non-native plant species invasive if it comprises more than 15% cover in 10% or more of the sample plots in any habitat class, and increases in cover or frequency from the previous monitoring period. Plants that meet this definition will be considered invasive for all successive years of monitoring.
56. **Bare Substrate Cover:** Bare substrate represents no more than 20% cover.
57. **Species Diversity:** By Year 3 and thereafter, there are at least 6 different native species. To qualify, a species must have at least 5% average cover in the habitat class, and occur in at least 10% of the plots sampled.
58. **Prevalence Index:** Prevalence Index is <3.0.

**To be deemed successful, the Eelgrass mitigation area shall meet the following performance standards, as determined by DSL:**

59. **Establishment of Monitoring Locations Required:** Transect locations must be established during the first annual monitoring in sufficient number and locations to be representative of the site. The transect locations must be clearly marked on the maps and drawings used in the monitoring reports.
60. **Eelgrass Acreage and Density Required:** The CWM site will have established a minimum of 7.3 acres of eelgrass beds whereby a minimum of 2.43 of these acres will be medium to high density eelgrass beds and the remainder of the 7.3 acres within the re-contoured area would classify as low density eelgrass beds as documented by annual monitoring. Density classes are defined as follows: less than 10% cover equals an absence of eelgrass bed, low density equals approximately 10% to 39% cover, medium to high density equals approximately 40% or greater.
61. **Transplanting from Donor Sites:** Transplanting of native eelgrass plants from donor beds to the mitigation site is authorized under the following conditions: Plants may be collected from identified donor beds with medium to high density (>40% cover) of native eelgrass. A grid collection pattern will be used with >1 meter spacing between collection areas. No more than 10% of the area of each bed will be harvested, and harvest is limited to areas with medium to high density (>40% cover) native eelgrass. Monitoring the donor sites along established transects will be provided for a minimum of 3 years after collection and results included in annual reports. Eelgrass cover in donor sites will be at least 40% cover by the third year after harvest.
62. **Invasive Species Cover:** The cover of non-native eelgrass species (*Z. japonica*) shall be no more than 15% for the duration of the monitoring period.

**To be deemed successful, the Intertidal and advanced mitigation area shall meet the following performance standards, as determined by DSL:**

63. **Mudflat/Low Marsh Acreage Required:** Construct a new bridge in East Bay Drive to allow tidal exchange between Kentuck Inlet and the "back nine" of Kentuck Golf Course to reestablish tidal flow to approximately 33.18 acres (required mitigation). The bridge shall be constructed as designed and presented in the application. This action has the potential to enhance 10.42 acres that is proposed for advance mitigation. Advance mitigation areas are expected to consist of mudflat with the potential for high marsh along higher elevations.
64. **Channels:** Modified or newly constructed channels within the mitigation site will be meandering as much as possible to avoid fish entrapment. Success will be determined through review by an Oregon Department of Fish and Wildlife fish biologist.
65. **Establishment of Monitoring Locations Required (Vegetated Areas):** Transect locations must be established during the first annual monitoring in sufficient number and locations to be representative of the site. The transect locations must be clearly marked on the maps and drawings used in the monitoring reports.

66. **Invasive Species Cover:** The cover of invasive species in all mitigation areas is no more than 10%, except *Spartina* species which have a zero tolerance. A plant species should automatically be labeled as invasive if it appears on the current Oregon Department of Agriculture noxious weed list, plus known problem species including *Phalaris arundinacea*, *Mentha pulegium*, *Holcus lanatus*, *Anthoxanthum odoratum*, and the last crop plant if it is non-native. Non-native plants should be labeled as such if they are listed as non-native on the USDA Plants Database. Beginning in Year 2 of monitoring, DSL will consider a non-native plant species invasive if it comprises more than 15% cover in 10% or more of the sample plots in any habitat class, and increases in cover or frequency from the previous monitoring period. Plants that meet this definition will be considered invasive for all successive years of monitoring.
67. **Vegetation Habitat Mapping Required (Advance Mitigation):** Vegetation communities in the advance mitigation area will be mapped in annual reports. This map should distinguish mudflat (unvegetated), low marsh, and high marsh habitats.
68. **Special Vegetation Standards in High Marsh Habitats:** The density of woody vegetation in high marsh habitats is at least 1,600 native plants (shrubs) and/or stems (trees) per acre, OR the cover of is at least 50% by year 5 of monitoring. Native species volunteering on the site may be included, dead plants do not count. After the overstory has reached 50% cover, the cover of invasive species may exceed 10%, but may not exceed 30% cover.
69. **Construction Criteria:** Construct a new cross dike between the front and back nine, with a standard tidegate to drain the front nine to the back nine; construct the tidegate array through the Kentuck Slough dike allowing the majority of the flow from Kentuck Slough to enter the back nine. Success will be determined through review of the tidegate array by an Oregon Department of Fish and Wildlife fish biologist. The dike shall be constructed as proposed and the tidegates will function as designed or modifications will be required.
70. **Dike Maintenance/Repair Criteria:** Dike repair and maintenance of approximately 2,250 linear feet of existing dike between Kentuck Slough and Kentuck Golf Course. No additional wetland impacts are requested or authorized as part of the dike maintenance.

**Modified:** December 29, 2011