

ECOSYSTEM MARKETS: TAKING ACTION
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REGULATORY REQUIREMENTS AND PATHWAYS TO CHANGE

This morning I want to dig into the problems for developing ecosystems markets posed by our existing regulatory framework and then outline a path to solving these problems. In doing so, I will use the award-winning Oregon Bridge Delivery Program as an example. For more information on the bridge program as a case study, INR has produced a report, available at http://inr.oregonstate.edu/download/Streamlining_Jan07.pdf

I. The Barriers to Cost-Effective Environmental Mitigation and Restoration

A. The existing legal and institutional framework for building a bridge:

1. Design the bridge
2. Permit the bridge agency by agency
3. Redesign the bridge multiple times to satisfy various agency requirements

NEPA compliance and permitting accounts for 28 percent of project time and costs.

B. Barriers:

1. “Siloed” agencies – over a dozen
2. Single-subject regulations - dozens
3. Command-and-control prescriptive regulations – specific rules describing precisely how activities must be performed.

C. Problems

1. “Bring me a rock” step-by-step and agency-by-agency design and permitting with repeated revisions to project design
2. Adversarial negotiations
3. Poor environmental results, e.g. onsite wetland mitigation that meets legal requirements but doesn’t produce results
4. Cost: time and dollars

- D. The Challenge: Several hundred cracked bridges demanded a new approach. Bridge by bridge permitting wouldn't work.

II. The Path Forward

- A. Shifted to an outcomes-based approach - "acceptable level of effect" instead of prescriptive rules.
<http://www.obdp.org/partner/environmental/performance/>
- B. Agreed upon shared goals across regulatory programs
1. Comprehensive Mitigation and Conservation Banking
<http://www.obdp.org/partner/environmental/mitigation/>
<http://www.fhwa.dot.gov/environment/ecosystems/or06.htm>
 2. Statewide Conservation Strategy (wetlands, ESA, water quality).
<http://www.dfw.state.or.us/conservationstrategy/index.asp>
The Oregon Bridge Delivery Program is estimated to have saved the state approximately \$55 million to date

III. What Does it Take?

- A. Environmental baseline information.
- B. Interagency working relations/collaboration. CETAS: Collaborative Environmental and Transportation Agreement for Streamlining (2+ year process among state and federal agencies)
<http://www.oregon.gov/ODOT/HWY/GEOENVIRONMENTAL/cetas.shtml>
- C. Change in agency cultures toward discretion, flexibility and risk taking.

IV. Conclusion

- A. We can break down the regulatory barriers. It's happening now.
- B. If we do, there will be opportunities for all Oregonians, urban and rural.
- C. If we do, we can move beyond regulation and compliance to restoration and long-term sustainability.