



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

July 1, 2014

Oregon State Legislature
State Capitol
900 Court Street NE
Salem, OR 97301

Dear Legislators:

In 2013, the Oregon Legislature passed Senate Bill 839 establishing a Water Supply Development Account to provide loans and grants for water resource projects that have economic, environmental, and community benefits. The Legislature authorized funding of \$10.2 million in lottery revenue bonds to be issued in spring of 2015. The bill requires the Water Resources Department to take a number of actions before developing rules and issuing grants and loans.

Purpose of This Document

Two reports, due July 1, 2014 to the Oregon Legislature, are required to come from a Seasonally Varying Flows Task Force and a Governance Task Force, both appointed by the Governor, in consultation with Legislative leadership. As the Task Forces have not yet been appointed, this document serves as an interim report.

Senate Bill 839 Projects

Projects eligible for SB 839 funding include, but are not limited to, projects that increase water use efficiency; develop new or expanded storage; allocate federally stored water; promote water reuse or conservation; and protect or restore streamflows. Also eligible are projects developed in connection with newly developed water that: improve operations of existing water storage facilities; create new or improved water distribution, conveyance or delivery systems; provide for water management or measurement; or determine seasonally varying flows.

Seasonally Varying Flows

Before awarding public monies for certain types of storage projects described in the bill, the Water Resources Department must determine whether the applicable seasonally varying flows have been established for the stream of interest (Section 13(2) of the bill).

As defined in Section 1 of the bill, “seasonally varying flows,” means:

The duration, timing, frequency and volume of flows, identified for the purposes of determining conditions for a new or expanded storage project, that must remain instream outside of the official irrigation season in order to protect and maintain the biological, ecological, and physical functions of the watershed downstream of the point of diversion, with due regard given to the need for balancing the functions against the need to store water for multiple purposes.

In other words, the Department must determine which flows are appropriate for storage and which are necessary to leave in the stream to fulfill an instream purpose.

As a foundation for decision-making, the Water Resources Commission must adopt by rule the methodology used to determine seasonally varying flows, and these rules must be based on the work and input of a Seasonally Varying Flows Task Force.

Seasonally Varying Flows (SVF) Task Force

As described in Section 19 of the bill, the Seasonally Varying Flows Task Force will act as an advisory body on the functional needs of watersheds for seasonally varying flows and the financial feasibility of new water storage projects.

The bill directs the task force to consider subgroup reports and by consensus develop a recommended methodology for determining seasonally varying flows that utilizes the best available scientific knowledge, and optimizes the functional benefits to watersheds, while also recognizing that: (1) the functional benefits will not occur unless a new water storage project is financially feasible; and (2) new water storage will not be appropriate or feasible in many locations.

Upon receipt of the final report from the Seasonally Varying Flows Task Force, the Water Resources Commission will consider the task force’s findings, and will adopt rules to establish the seasonally varying flows methodology. The bill requires these rules to take effect on January 1, 2015; however, this timeline may not be feasible, given that the task force has yet to be convened.

Science and Economic SVF Subgroups

To assist the SVF Task Force in these efforts, two subgroups developed economic and scientific findings and recommendations that were published in two separate reports on February 1, 2014.

During the months of October through December 2013, each subgroup met at the Oregon Water Resources Department five times. The members of both subgroups were actively engaged and thoughtful throughout the process, working with staff through January to develop the finalized reports.

Science Subgroup Findings. The Science Subgroup was convened by Brett Brownscombe, the Governor's Natural Resources Advisor. Subgroup members included: Tim Hardin, Oregon Department of Fish and Wildlife; Valerie Kelly, U.S. Geological Survey; Don Anglin, U.S. Fish and Wildlife Service; Leslie Bach, The Nature Conservancy; and Ken Stahr, Oregon Water Resource Department.

The Science Subgroup conducted a literature review and consulted with other experts, finding a broad consensus that protection of a variable flow regime is critical to ecosystem function. Many states and Canadian provinces have adopted a percent of flow (POF) method to allow some allocation of water, while protecting natural flow variability. Consistent with these other regions, the science subgroup recommended a percent of flow approach for those water storage projects that receive funding from Oregon's Water Supply Development Account. Using this approach, funding recipients could potentially store up to 15 percent of daily flow, minus prior allocations, without extensive study or review. The amount of water remaining instream would follow the shape of, but be less than, the natural hydrograph.

For publicly funded projects needing more water than the POF allocation, the Science Subgroup recommended that applicants develop an in-depth assessment, in consultation with the Water Resources Department and a technical review committee. The in-depth assessment would address hydrological, biological, geomorphological, connectivity, and water quality needs. The resulting assessment would describe the results, including the magnitude, frequency and duration of seasonally varying flows to be protected.

This report is available through the Water Resources Department's website:

http://www.oregon.gov/owrd/docs/SB839/Science_Subgroup_2014_02_Report_Final.pdf.

Economic Subgroup Findings. Richard Whitman, the Governor's Natural Resources Policy Advisor, convened the Economic Subgroup. Subgroup members included: Dawn Wiedmeier, United States Bureau of Reclamation; Said Amali, Integral Consulting; Paul Matthews, Tualatin Valley Water District; Bill Jaeger, Oregon State University; Colleen Johnson, Environmental Quality Commission; and Ray Jaendl, Oregon Department of Agriculture.

The Economic Subgroup examined the economic realities of developing and operating water storage projects. In the report, the Economic Subgroup identified several factors that demonstrate a need in Oregon for additional stored water. The report then describes the four primary techniques used to store water for instream and out-of-stream use.

The Economic Subgroup conducted a literature review of methods used to evaluate both the financial feasibility and the cost and benefits of water storage projects. Appreciating the benefits that water storage projects can provide to both instream and out-of-stream users, the Economic Subgroup laid out methods to help funding applicants and potential funders at the state level to fully account for the costs and benefits of these projects. The report provides an outline of these techniques, as well as additional references for practitioners.

The Economic Subgroup recommended that the State form a Technical Review Team to assist applicants with the design of both financial feasibility and cost-benefit analyses. The report also recommends using pre-application meetings to improve communication and coordination between the State and funding applicants.

This report is also available on-line:

http://www.oregon.gov/owrd/docs/SB839/Economic_Subgroup_2014_02_Report_Final.pdf.

Governance Task Force. The Governance Task Force is a separate task force that is charged with reviewing the structure of the decision-making process outlined in Senate Bill 839. In addition, the task force will review and provide recommendations on: (1) the appropriate role of the state in providing loan and grant funding for multipurpose water development, and (2) the decision-making process for allocating newly developed water when the uses of the water are not specified in the funding application. Appointed by the Governor's Office, in consultation with Legislative Leadership, the task force is scheduled to submit its report to the Governor, Legislature and Water Resources Commission by July 1, 2014. However, the task force has not yet been named or convened.

Conclusion. The Department appreciates the leadership the Legislature has shown with regard to water supply development in the State of Oregon, by providing funding resources and policy guidance. The Department will provide final reports from both task forces when they become available.

Sincerely,



Thomas J. Paul
Acting Director