



Senate Bill 839 Task Forces

Kick-Off Meeting
August 15, 2014

Richard Whitman, Convenor

Today's Discussion

- **Intro and Agenda Review**
- **Orientation** (Logistics, Materials, Ground Rules)
- **Background & Overview** (Why We're Here)
- **SB 839 Walk Through**
- **Overview of Subgroup Reports**

Introductions & Agenda Review

Orientation: Building Lay-Out

Finding Materials On-line



Water Resources Department

- About Us
- Contact Us
- Adjudications
- Commission
- Dam Safety
- File Pickup
- Forms
- Groundwater
- Jobs at WRD
- Links
- Maps
- Publications
- Surface Water
- Transfers
- Water Law
- Water Management
- Water Rights
- Well Construction and Compliance

Oregon's Integrated Water Resources Strategy



The State of Oregon has launched its first Integrated Water Resources Strategy. Adopted by the Water Resources Commission on August 2, 2012, the Strategy provides a blueprint for understanding and meeting Oregon's water quantity, water quality, and ecosystem needs now and into the future. Using a process that involved extensive public outreach, the Strategy identifies the most critical water-related challenges facing communities throughout Oregon. It offers recommendations in 13 different issue areas to address these challenges.

The Strategy and its Executive Summary are now available online. [Click Here](#)



1 of 2

Agency Resources

Resources For:

- [Well Constructors](#)
- [Exempt Use Water Well Recording](#)
- [Realtors®](#)
- [Certified Water Right Examiners](#)
- [Water Conservation](#)
- [Drought Watch](#)
- [Conservation and Supply Resources and Programs](#)
- [Deschutes Basin Mitigation Program](#)
- [Environmental Justice](#)
- [Gold Mining: FAQ](#)
- [Assignments and Ownership Updates](#)

Lookup Information:

- [Lookup Water Rights](#)
- [Find Out if a Property has a Water Right](#)
- [Find a Well Log](#)
- [Well ID Application Form](#)
- [Find a Document \(Vault\)](#)
- [Near Real Time Streamflow Data](#)
- [Ground Water Data](#)
- [Dams in Oregon](#)
- [Work Groups](#)

Agency Spotlight

Klamath Basin Task Force Updates

Proposed Upper Basin Comprehensive Agreement Released

On February 28, 2014, the negotiating team on water issues reached a proposed Final Upper Basin Comprehensive Agreement. That agreement is going through final review by the Klamath Tribes and other parties prior to signing.

[Click here](#) for more information.

Klamath Adjudication

The Adjudicator's findings of fact and final order of determination were filed with the Klamath County Circuit Court on March 7th 2013.

- [Press Release](#)
- [FAQ](#)
- [Adjudication Details](#)
- [Klamath Task Force Presentation by Tom Paul - September 19, 2013](#)

Commission Offers 2nd Cycle of Grant Funding

At its March 7th meeting, the Water Resources Commission made the decision to offer another grant opportunity for those interested in a Water Conservation, Reuse or Storage grant. There is \$156,340 available for new applicants. The grant deadline for this cycle is April 11, 2014.

For those interested in a grant to conduct feasibility studies on water conservation, reuse or storage projects links to the application and other applicable information are provided below:

[Click Here](#) for March 7th Grant Awards

- Groundwater
- Surface Water
- Water Law
- Water Rights Quick Links
- Rulemaking
- OWRD Legislative Updates
- Public Records Request

Featured Links

- [Fee Schedule](#)
- [Learn About Water Rights in Oregon](#)
- [Water Rights Public Notice](#)
- [Water Use Reporting](#)
- [Agency Performance Measures](#)
- [Locate My Local Watermaster](#)



“Work Groups” contains your membership roster, meeting calendar, agendas, and background materials.

Ground Rules

- Meeting Protocols
- Decision-Making Process
- Other?

SB 839 Overview

(Why we're here today)

OREGON'S SENATE BILL 839 (2013)

- Develops sideboards for the public funding of water supply development projects from Account 

77th OREGON LEGISLATIVE ASSEMBLY-2013 Regular Session

**Enrolled
Senate Bill 839**

Sponsored by COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

CHAPTER

AN ACT

Relating to water; creating new provisions; amending ORS 541.700, 541.710, 541.720, 541.730, 541.740 and 541.830 and sections 17, 33, 34 and 46, chapter 907, Oregon Laws 2009; repealing ORS 541.600, 541.606, 541.611, 541.616, 541.621, 541.631, 541.636, 541.641, 541.646 and 541.725; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in sections 1 to 15 of this 2013 Act:

(1) "Newly developed water" means the new increment of water:

(a) Stored for a project providing new or expanded storage;

(b) Allocated to a use under a secondary water right for a project involving the allocation of previously uncontracted water stored by the United States Army Corps of Engineers under an existing water right; or

(c) Conserved for a project to allocate conserved water under the program described in ORS 537.455 to 537.500.

(2) "Seasonally varying flows" means the duration, timing, frequency and volume of flows, identified for the purpose of determining conditions for a new or expanded storage project, that must remain in-stream 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.

SECTION 2. (1) The purpose of sections 1 to 15 of this 2013 Act is to establish a means for state government to support the development of water resource projects having economic, environmental and community benefits.

(2) The Legislative Assembly intends that any conditions or requirements described in sections 1 to 15 of this 2013 Act apply only to projects that receive loans or grants from the Water Supply Development Account established in section 3 of this 2013 Act.

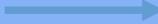
SECTION 3. (1) The Water Supply Development Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Water Supply Development Account shall be credited to the account. Moneys in the account are continuously appropriated to the Water Resources Department for use in carrying out sections 1 to 15 of this 2013 Act.

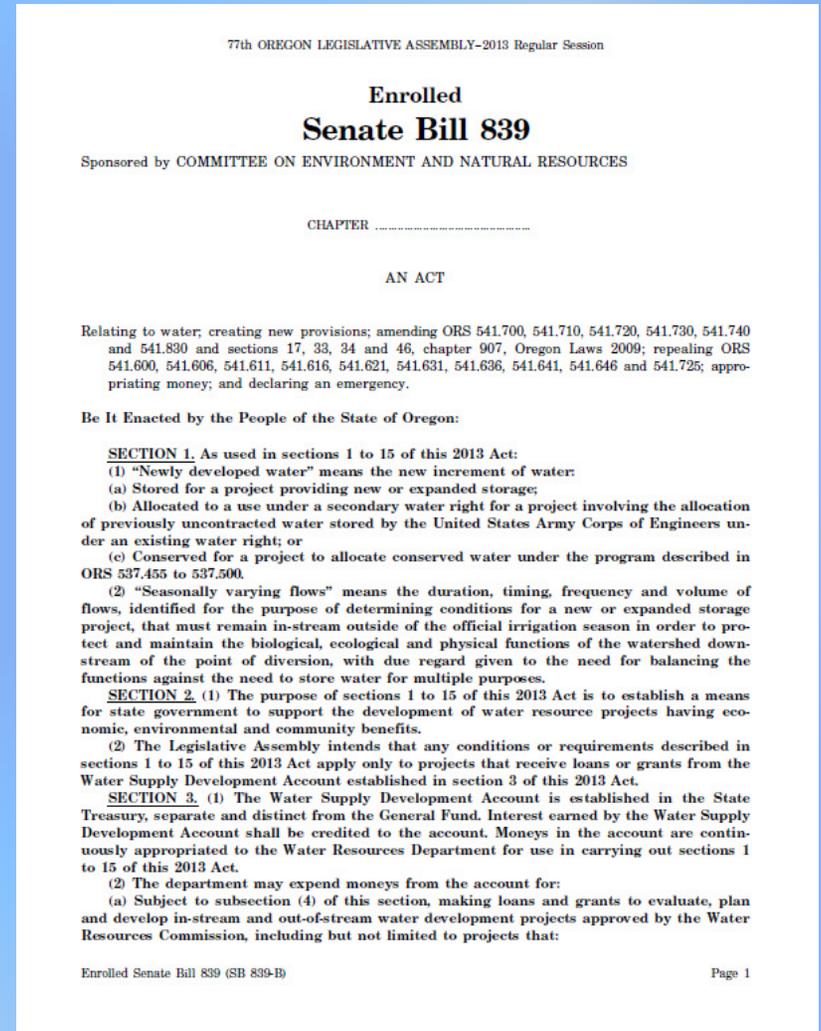
(2) The department may expend moneys from the account for:

(a) Subject to subsection (4) of this section, making loans and grants to evaluate, plan and develop in-stream and out-of-stream water development projects approved by the Water Resources Commission, including but not limited to projects that:

Enrolled Senate Bill 839 (SB 839-B) Page 1

OREGON'S SENATE BILL 839 (2013)

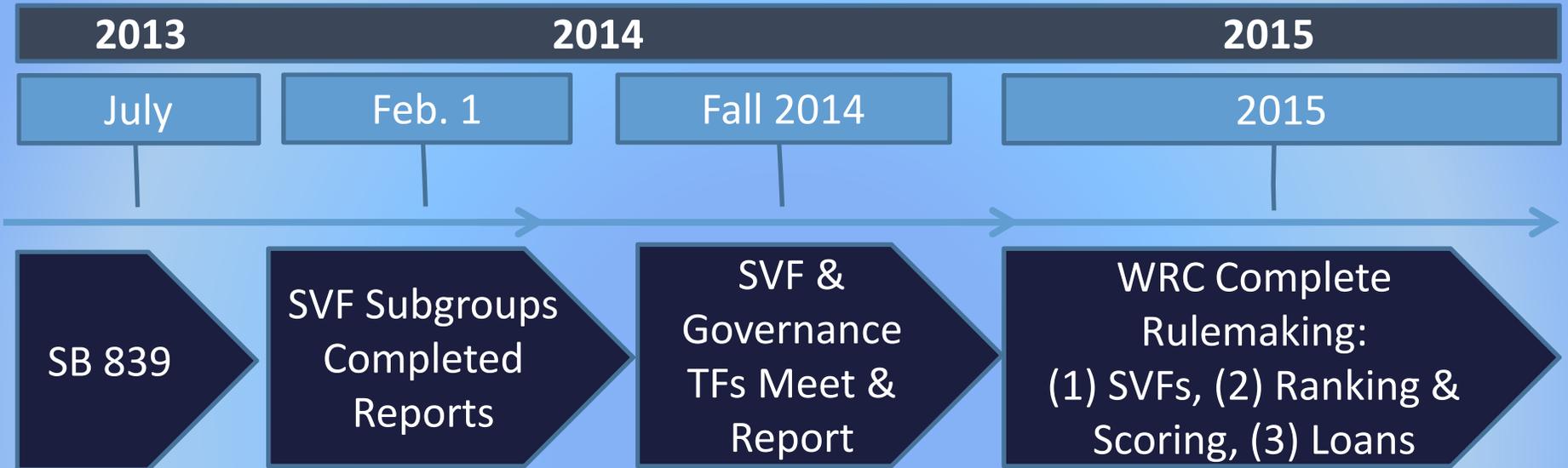
- Develops sideboards for the public funding of water supply development projects from Account 
- Directs the formation of task forces to assess:
 - Governance Issues
 - Seasonally Varying Flows



Timeline

(2013-15)

SB 839 TIMELINES & OUTCOMES



SB 839 PROPOSED TIMELINES

2015



2016



SB 839 Walk Through

(hardcopies of the bill available)

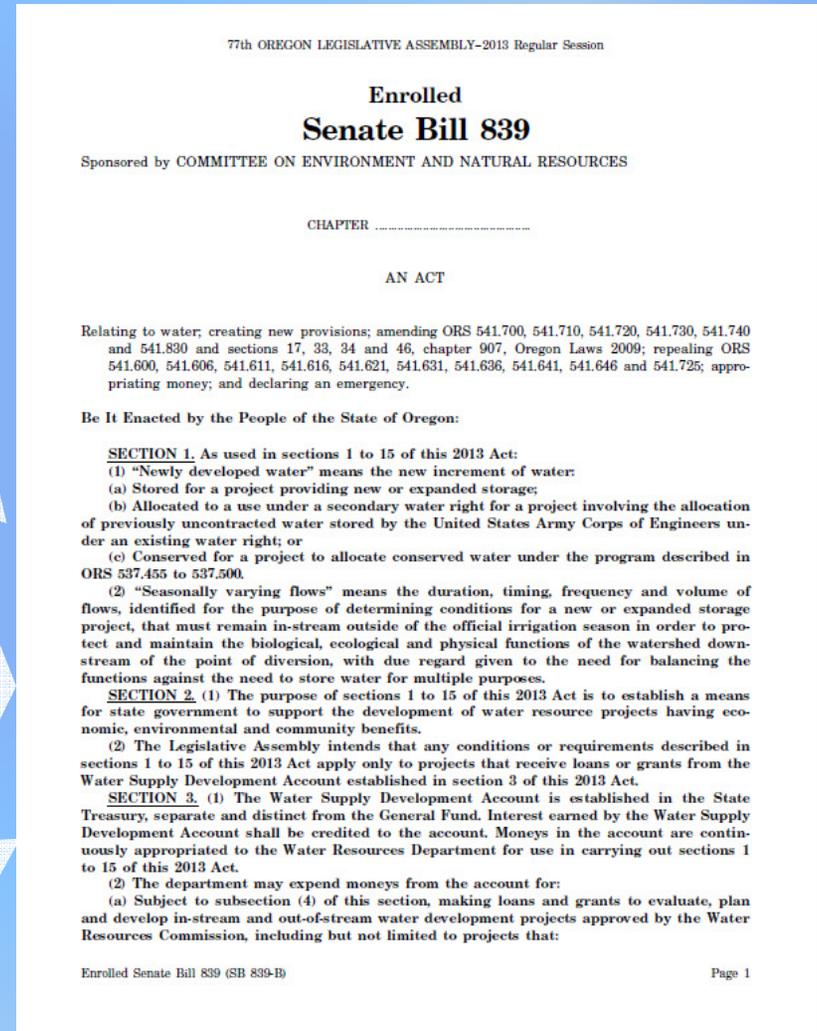
OREGON'S SENATE BILL 839 (2013)

- Develops sideboards for the public funding of water supply development projects →

• Section 1. Defines SVFs

• Section 2. Confirms that conditions in this bill apply only to projects funded by SB 839.

• Section 3. Establishes Water Supply Development Account



OREGON'S SENATE BILL 839 (2013), p. 2

Section 3. Eligible Projects

Section 4. Eligible Parties

Section 5. Pre-Application Conferences are available

Section 6. Applications must include...

- (A) Repair or replace infrastructure to increase the efficiency of water use;
- (B) Provide new or expanded water storage;
- (C) Improve or alter operations of existing water storage facilities in connection with newly developed water;
- (D) Create new, expanded, improved or altered water distribution, conveyance or delivery systems in connection with newly developed water;
- (E) Allocate federally stored water;
- (F) Promote water reuse;
- (G) Promote water conservation;
- (H) Provide streamflow protection or restoration;
- (I) Provide for water management or measurement in connection with newly developed water; and
- (J) Determine seasonally varying flows in connection with newly developed water.

(b) Paying the necessary administrative and technical costs of the department in carrying out sections 1 to 15 of this 2013 Act.

(3)(a) In addition to any other permissible uses of moneys in the account, the department may expend moneys from the account to support:

(A) Ongoing studies conducted by the United States Army Corps of Engineers to allocate stored water; and

(B) Comprehensive basin studies conducted by the United States Bureau of Reclamation.

(b) Expenditures described in this subsection are not subject to any grant or loan procedures, public benefit scoring or ranking or other requirements or restrictions for grants or loans established under sections 1 to 15 of this 2013 Act.

(4) The department may expend account moneys under subsection (2) of this section for loans and grants to develop in-stream and out-of-stream water development projects only if the department determines under ORS 540.530 that any transfer of water rights for the project will not injure existing water rights.

SECTION 4. Loans and grants may be made from the Water Supply Development Account to persons as defined in ORS 536.007, Indian tribes as defined in ORS 391.802 and nonprofit organizations. If an applicant is required to have a water management and conservation plan, the plan must be submitted to the Water Resources Department and receive approval prior to department acceptance of an application for a loan or grant from the account.

SECTION 5. (1) A prospective applicant for a loan or grant from the Water Supply Development Account may participate in a preapplication conference with the Water Resources Department.

(2) At the preapplication conference, the department shall inform the prospective applicant of the procedural and substantive requirements of a loan or grant application and of the scoring system used to evaluate loan and grant requests. The department shall assist the prospective applicant by identifying known issues that may affect project eligibility for a loan or grant from the account.

(3) Not less than 14 days before the preapplication conference, the prospective applicant must provide the department with adequate project information to prepare for the preapplication conference.

(4) The prospective applicant may request additional preapplication consultation with the department.

SECTION 6. Applications for a loan or grant from the Water Supply Development Account must be in a form prescribed by the Water Resources Department and must include the following:

(1) A description of the need, purpose and nature of the project, including what the applicant intends to complete and how the applicant intends to proceed.

OREGON'S SENATE BILL 839 (2013), p. 3

Section 7. Water Resources Commission (WRC) Rules for scoring and ranking projects:

- Include minimum criteria
- Use public benefit categories
- Annual awards

Water Resources Dept. (WRD):

- Review apps for completeness
- Provide public notice
- Allow for public comment

Technical Review Team shall:

- Consider comments
- Score and rank
- Recommend to WRC

WRC = Final Decision

(2) Sufficient information to allow evaluation of the application based upon the public benefit scoring and ranking of the project.

(3) Current contact information for the principal contact, fiscal officer and involved landowners.

(4) For applications involving physical changes or monitoring on private land, evidence that landowners are aware of and agree to the proposal and are aware that monitoring information is a public record.

(5) The location of the proposed project, using public land survey reference points, latitude and longitude, county, watershed, river and stream mile, if appropriate.

(6) An itemized budget for the project, including fiscal and administrative costs.

(7) A description of funds, services or materials available to the project.

(8) A project schedule, including beginning and completion dates.

(9) Any conditions that may affect the completion of the project.

(10) A completed feasibility analysis if appropriate.

(11) Suggestions for interim and long-term project performance benchmarks.

(12) If the application is for a grant, demonstrated in-kind and cash cost match of not less than 25 percent of the amount of the grant sought from the account.

(13) If the application is for a loan, evidence demonstrating ability to repay the loan and provide collateral.

(14) Letters of support for the proposed project.

(15) If required by the department, a description of consultations with affected Indian tribes regarding the project.

(16) Any other information required by the department.

SECTION 7. (1) The Water Resources Commission shall adopt rules establishing a system for scoring and ranking projects to determine which projects are to be awarded loans and grants from the Water Supply Development Account, including but not limited to the application of minimum criteria designed to achieve the outcomes described in section 9 of this 2013 Act. The criteria shall be based on the public benefit categories described in section 8 of this 2013 Act. The commission shall make the loan and grant funding decisions once each year. Applications must be filed with the Water Resources Department. The department shall accept an application for a loan or grant at any time, but shall establish a yearly deadline for the consideration of a pool of applications.

(2) The department shall conduct a preliminary review of applications to check for completeness, eligibility and minimum requirements upon receipt of each application. The department shall return incomplete applications to the applicant. The department shall provide public notice by posting new funding applications on the department's website for a 60-day period prior to reviewing the applications. The department shall provide for the receipt of public comment on the applications during the 60-day period that applications are posted on the department's website.

(3) The department shall forward applications that have passed preliminary review, along with any comments received from applicants or the public, to a technical review team consisting of representatives of the Water Resources Department, the Department of Environmental Quality, the State Department of Fish and Wildlife, the State Department of Agriculture, the Oregon Business Development Department, affected Indian tribes, any collaborative body established by the Governor to address challenges, opportunities and priorities for the region affected by the project and additional experts as determined by the Water Resources Department. The technical review team shall conduct the initial scoring and ranking for the projects described in the applications, consider comments from applicants and the public and make loan and grant funding recommendations to the commission. The commission shall determine the final scoring and ranking of projects and make the final decision regarding which projects are awarded loans or grants from the account. Before the

OREGON'S SENATE BILL 839 (2013), p. 4

Section 7, continued

- WRC not required to obligate all funds during a cycle.
- WRD must document and make publicly available all rankings.

Section 8. Project evaluations based on "Public Benefits"

- Both positive and negative
- Economic (Sect. 8(2))
- Environmental (Sect. 8(3))
- Social / Cultural (Sect. 8(4))

commission makes a final decision on an application, the commission shall offer one additional opportunity for public comment.

(4) The commission is not required to obligate all available account moneys during a funding cycle. Any available account moneys that are not obligated during a funding cycle shall be carried forward and be made available for projects in future funding cycles.

(5) The department shall document the ranking of all applications and make the application ranking publicly available after the funding decisions by the commission have been published.

SECTION 8. (1) Projects applying under section 7 of this 2013 Act for funding from the Water Supply Development Account shall be evaluated based upon the public benefits of the project. The evaluation must consider both positive and negative effects of a project. The three categories of public benefit to be considered in the project evaluation are economic benefits, environmental benefits and social or cultural benefits. Each category of benefits shall be given equal importance in the evaluation of a project. The technical review team described in section 7 of this 2013 Act shall use the evaluation system to assign initial scores and rankings to projects. The Water Resources Commission shall use the evaluation system to assign final scorings and rankings to the projects. The commission shall award loan and grant funding from the account to the projects that have the greatest public benefit and will best achieve the outcomes described in section 9 of this 2013 Act.

(2) The evaluation of economic benefits for a project shall be based on the changes in economic conditions expected to result from the project, including but not limited to conditions related to:

- (a) Job creation or retention;
- (b) Increases in economic activity;
- (c) Increases in efficiency or innovation;
- (d) Enhancement of infrastructure, farmland, public resource lands, industrial lands, commercial lands or lands having other key uses;
- (e) Enhanced economic value associated with tourism or recreational or commercial fishing, with fisheries involving native fish of cultural significance to Indian tribes or with other economic values resulting from restoring or protecting water in-stream; and
- (f) Increases in irrigated land for agriculture.

(3) The evaluation of environmental benefits for a project shall be based on the changes in environmental conditions expected to result from the project, including but not limited to conditions related to:

- (a) A measurable improvement in protected streamflows that:
 - (A) Supports the natural hydrograph;
 - (B) Improves floodplain function;
 - (C) Supports state or federally listed sensitive, threatened or endangered fish species;
 - (D) Supports native fish species of cultural importance to Indian tribes; or
 - (E) Supports riparian habitat important for wildlife;
- (b) A measurable improvement in ground water levels that enhances environmental conditions in ground water restricted areas or other areas;
- (c) A measurable improvement in the quality of surface water or ground water;
- (d) Water conservation;
- (e) Increased ecosystem resiliency to climate change impacts; and
- (f) Improvements that address one or more limiting ecological factors in the project watershed.

(4) The evaluation of the social or cultural benefits for a project shall be based on the changes in social or cultural conditions expected to result from the project, including but not limited to conditions related to:

- (a) The promotion of public health and safety and of local food systems;

OREGON'S SENATE BILL 839 (2013), p. 5

Section 9. Minimum Criteria

- Achieve these outcomes:
 - Provide benefits in economic, environmental, social/cultural
 - Partnership / collaboration
 - Diverse project size, type, place
 - For diversions, improve protected streamflows
 - For efficiency projects, increase water use efficiency
- WRD biennial review

Section 10. Above-Ground Storage projects – must dedicate 25% of stored water instream

Section 11. All other projects – how to meet requirements.

- (b) A measurable improvement in conditions for members of minority or low-income communities, economically distressed rural communities, tribal communities or other communities traditionally underrepresented in public processes;
- (c) The promotion of recreation and scenic values;
- (d) Contribution to the body of scientific data publicly available in this state;
- (e) The promotion of state or local priorities, including but not limited to the restoration and protection of native fish species of cultural significance to Indian tribes; and
- (f) The promotion of collaborative basin planning efforts, including but not limited to efforts under the state integrated water resources strategy.

SECTION 9. (1) The Water Resources Commission shall design the minimum criteria for the project scoring and ranking system described in section 7 of this 2013 Act to achieve the following outcomes:

(a) The issuance of grants or loans only to projects that provide benefits in each of the three categories of public benefit described in section 8 of this 2013 Act.

(b) Preference for partnerships and collaborative projects.

(c) The funding of projects of diverse sizes, types and geographic locations.

(d) If a project proposes to divert water, preference for projects that provide a measurable improvement in protected streamflows.

(e) If a project proposes to increase efficiency, preference for projects that provide a measurable increased efficiency of water use.

(2) The Water Resources Department shall review the loan and grant program on a biennial basis to assess to what extent the outcomes described in subsection (1) of this section are being achieved, and shall report the review findings to the Water Resources Commission. The commission shall modify the project selection process as necessary to better achieve the outcomes described in subsection (1) of this section.

SECTION 10. (1) The recipient of a grant from the Water Supply Development Account must agree to the condition set forth in subsection (2) of this section if the grant is for the development of a new or expanded above-ground storage facility that:

(a) Impounds surface water on a perennial stream;

(b) Diverts water from a stream that supports state or federally listed sensitive, threatened or endangered fish species; or

(c) Diverts more than 500 acre-feet of water annually.

(2) Twenty-five percent of the newly developed water from a project described in subsection (1) of this section must be dedicated to in-stream use.

(3) To establish that a project complies with subsection (2) of this section, the grant recipient may include water dedicated to in-stream use as a result of the conditions of federal, state or local permits for the project.

SECTION 11. (1) A project that receives a loan or grant from the Water Supply Development Account must:

(a) Demonstrate social or cultural benefits and economic benefits sufficient to qualify the project under the scoring and ranking system described in section 7 of this 2013 Act; and

(b) Except as otherwise provided in section 10 of this 2013 Act, demonstrate environmental benefits:

(A) By dedicating 25 percent of conserved water or newly developed water to in-stream use; or

(B) By demonstrating environmental benefits that are sufficient to qualify the project under the scoring and ranking system described in section 7 of this 2013 Act.

(2) The description of public benefit requirements in subsection (1) of this section does not exempt any project from meeting the minimum criteria designed by the Water Resources Commission under section 9 of this 2013 Act.

OREGON'S SENATE BILL 839 (2013), p. 6

Section 12. Water Instream

- WRD must protect water placed instream via Sections 10-11.
- Water may come from project or other source.
- WRD w/ ODFW determine placement & timing.

Section 13. Seasonally Varying Flows (SVFs).

- For new storage projects described in the bill, WRD determine if SVFs have been established for the stream of interest.
- If not, use WRC rules to establish.
- Applicable to current & future storage projects on this stream, seeking \$ / permits.
- Applicant may request other SVFs.

(3) To establish that a project complies with subsection (1)(b) of this section, the loan or grant recipient may include water dedicated to in-stream use as a result of the conditions of federal, state or local permits for the project.

SECTION 12. If a project dedicates water to in-stream use under the requirements described in section 10 of this 2013 Act or as allowed under section 11 of this 2013 Act, the Water Resources Department shall protect the dedicated water in-stream consistent with the priority of the dedicated water source. Dedicated water from projects may come from newly developed water or from other sources and may be put in-stream at other locations in the tributary if the department determines as provided under ORS 540.530 that the alternate location would not injure existing water rights and, in consultation with the State Department of Fish and Wildlife, determines that the alternate location would provide greater or equal environmental benefit. The Water Resources Department, in consultation with the State Department of Fish and Wildlife, shall determine the timing of the flows to maximize in-stream benefits in a manner consistent with public health and safety.

SECTION 13. (1) The Water Resources Department shall make a determination as provided under subsection (2) of this section if an application for a loan or grant from the Water Supply Development Account is for a project that requires a new water storage or aquifer recharge permit or limited license for the storage of water outside of the official irrigation season and:

- (a) Impounds surface water on a perennial stream;
- (b) Diverts water from a stream that supports state or federally listed sensitive, threatened or endangered fish species; or
- (c) Diverts more than 500 acre-feet of surface water annually.

(2) The department shall review a completed application for a project described in subsection (1) of this section to determine whether the applicable seasonally varying flows have been established under this section for the stream of interest. If the department determines that the applicable seasonally varying flows have not been established, the department shall establish the seasonally varying flows before issuing a loan or grant from the account. The department may use account moneys to pay the cost of establishing a seasonally varying flow and to pay other costs directly related to project development.

(3) The department shall establish any seasonally varying flows under subsection (2) of this section in consultation with the State Department of Fish and Wildlife and any affected Indian tribes. The department may rely upon existing scientific data and analysis or may fund new data and analysis. The department shall establish seasonally varying flows using a methodology established by Water Resources Commission rules. If seasonally varying flows are established for a stream, a subsequent water storage or aquifer recharge permit or limited license for the storage of water must be conditioned in accordance with the applicable seasonally varying flows if the license or permit:

- (a) Is for a project receiving a loan or grant from the account;
- (b) Is for the storage of water outside of the official irrigation season; and
- (c) Has a diversion point that is subject to seasonally varying flows.

(4) The applicant for a permit or license described in subsection (3) of this section may request that seasonally varying flows be altered based upon new information. There is, however, a rebuttable presumption that existing applicable seasonally varying flows protect and maintain the biological, ecological and physical functions of the stream to the extent required by commission rules.

(5) The department shall condition the new water storage permit and resulting certificate, new aquifer recharge permit and resulting certificate or new limited license associated with a project that receives a grant or loan from the account to protect the seasonally varying flow in effect at the time the loan or grant is issued for the project.

(6) For purposes of any project that receives a loan or grant from the account and has the characteristics described in subsection (1) of this section, or any project described in

OREGON'S SENATE BILL 839 (2013), p. 7

Section 13, continued.

- Continue to use WRD's "water availability method."

Section 14. Before Construction

- Obtain all necessary permits
- Note WRD funding on signage
- Demonstrate public benefits as described in the application.
- Measurement, reporting, maintenance, other requirements to maintain \$.

Section 15. Loan Standards

- WRC adopt rules to ensure secured and repaid loans
- Work w/ DAS and Treasurer

subsection (3) of this section, the department shall use a seasonally varying flow methodology provided by commission rules in lieu of any other methodologies for determining seasonally varying flows or any methodologies for determining peak and ecological flows outside of the official irrigation season.

(7) Subsections (1) to (6) of this section do not eliminate or alter any applicable standard for department review of an application to determine whether water is available for purposes of reviewing an application for a new water storage or aquifer recharge permit or a limited license for the storage of water.

SECTION 14. (1) Before loan or grant moneys are expended from the Water Supply Development Account for the construction of a project, the recipient must obtain all applicable local, state and federal permits. Project materials must include a notation indicating that Water Resources Department funding was used for the project.

(2) The loans or grants may be conditioned to require that the recipient complete and operate the funded project as described in the loan or grant application. The department may require that before commencing the operation of a project funded with account moneys, the funding recipient demonstrate that the public benefits identified for the project, including any environmental benefits proposed at a location other than the project site, will be realized in a timely fashion.

(3) At regular intervals, and upon completion of the project, the loan or grant recipient must submit updates to the department that describe the completed work, the public benefits achieved and project expenditures. The recipient must regularly measure and report the water diverted and used from the project. The recipient must monitor, evaluate and maintain the project for the life of the loan, or for a specified number of years for a grant, and provide annual progress reports to the department. The department may impose other project-specific conditions by noting the conditions during project evaluation and including the condition in the funding agreement for the project.

(4) The department may terminate, reduce or delay funding for a project if the loan or grant recipient fails to comply with any provision of subsections (1) to (3) of this section.

SECTION 15. (1) The Water Resources Commission shall adopt rules establishing standards for borrowers obtaining loans issued from the Water Supply Development Account. The commission shall design the standards to ensure that all loans have a high probability of repayment and that all loans are adequately secured in the event of a default. The commission shall solicit comments from the Oregon Department of Administrative Services and the State Treasurer when designing the standards. The standards may include, but need not be limited to, standards that give preference to entities with ad valorem taxing authority.

(2) If the Water Resources Department approves a loan from the account for the implementation of a water development project, the department may require that the applicant enter into a loan contract, secured by a first lien or by other good and sufficient collateral.

SECTION 16. Section 17, chapter 907, Oregon Laws 2009, is amended to read:

Sec. 17. (1) As used in this section, "critical ground water storage project" means an underground or below-ground storage of river water in a critical ground water area designated under ORS 537.730 for use in:

(a) Aquifer storage and recovery as described in ORS 537.534 and streamflow augmentation and restoration; or

(b) Recharging ground water basins and reservoirs as described in ORS 537.135 and streamflow augmentation and restoration.

(2) The Water Resources Department may issue a grant under this section only for a critical ground water storage project that is located in the Umatilla Basin and that meets the conditions described in this section.

(3)(a) [Except as provided in subsection (4) of this section, notwithstanding ORS 537.534,] If the project uses artificial recharge to recharge an alluvial aquifer that is not confined, the project must be designed:

OREGON'S SENATE BILL 839 (2013), p. 8

Section 16-17. Adjusts description of the Umatilla Basin Aquifer Recovery Project described in a 2009 bill, HB 3369.

- Skip, for now

Section 18. Governance Task Force

- Convened by Governor
- Review Sect. 1-15 of this bill

[(a)] (A) To provide [for no more than 75 percent of new stored water to be withdrawn and for not less than 25 percent of the new water to be dedicated for the purpose of providing] net environmental public benefits [or in-stream benefits] in an amount equal to at least 25 percent of the water stored by the project; and

[(b)] (B) To the extent practicable, to [return dedicated new stored water for stream] deliver any net environmental public benefit water to be provided in the form of in-stream flow augmentation at a time of year that the Water Resources Department, in consultation with the State Department of Fish and Wildlife and relevant tribal governments, determines will provide the maximum net environmental public benefit or in-stream benefit.

(b) For purposes of determining whether a project described in this subsection produces the required net environmental public benefit, the project shall be considered to be for the development of not more than 25,000 acre-feet of aquifer recharge as described in a final grant report submitted by the grantee to the department.

(4) If more than 25 percent of the funding for an aquifer storage and recovery project is from grants of state moneys and is not subject to repayment, the project must be designed to [dedicate for the purpose of providing] provide net environmental public benefit [or in-stream benefit a percentage of the new stored water created by the project] in an amount that equals or exceeds the percentage of funding for the project that is from grants of state moneys. The Water Resources Department shall manage the [dedicated increment of new stored water] amount of water provided for net environmental public benefit [and in-stream benefit] in the form of in-stream flow.

(5) On or before the earlier of six years after the issuance of the ground water recharge permit or the date the water right certificate is issued, the department shall quantify and legally protect in-stream the increment of new water returned in stream from a project described in this section.

(6) The department shall require as a contractual condition for issuing [the grant] additional grant moneys for projects established as provided under this section, and as a condition of any new ground water recharge permit or water right certificate issued for the project, that if the project receives grants or loans from state moneys other than a grant issued under this section or other state moneys used to complete the feasibility design and pilot phase of project development funded by a grant under this section, the project must be operated in a manner that actually dedicates the percentage of new stored water for net environmental public benefit or in-stream benefit that the project was designed to dedicate for those purposes.

(7) This section does not limit the authority granted the Environmental Quality Commission or the Department of Environmental Quality under ORS chapter 468B.

(8) This section is repealed [January 2, 2030] July 1, 2015.

SECTION 17. At the request of the grantee, the terms and conditions of a grant approved by the Water Resources Department under section 17, chapter 907, Oregon Laws 2009, prior to the effective date of this 2013 Act shall be amended to replace the terms and conditions originally imposed for the grant with terms and conditions similar to the terms and conditions imposed for grants issued under section 17, chapter 907, Oregon Laws 2009, as amended by section 16 of this 2013 Act.

SECTION 18. (1) The Governor, or a designee of the Governor, shall appoint a nonlegislative task force composed of members the Governor or designee deems to be appropriate and to be sufficiently representative of agricultural, municipal, conservation and tribal interests and of other groups having an interest in water resources development.

(2) The task force shall meet at times and places specified by the Governor or the designee of the Governor.

(3) The task force shall review the structure established for water development project loans and grants under sections 1 to 15 of this 2013 Act and develop any proposals for changing the structure that the task force determines to be warranted. The review may include but need not be limited to possible changes in the long-term structure of the decision-making process regarding:

OREGON'S SENATE BILL 839 (2013), p. 9

Section 18, continued. Consider:

- Role of the state in funding.
- Allocation of newly developed water (if not already specified)
- Report due to Governor & Legislature July 1, 2014.

Section 19. SVF Task Force

- Appointed by Governor in consultation with legislative leadership.
- Advise on:
 - (1) Functional needs of watersheds for SVFs
 - (2) Financial feasibility of new water storage projs.

(a) The appropriate role of the state in providing loan and grant funding for multipurpose water resource development under sections 1 to 15 of this 2013 Act; and

(b) The decision-making process for the allocation of newly developed water from projects for which the uses of the water were not specified in the funding application.

(4) The Water Resources Department shall provide staff support to the task force.

(5) The task force shall submit a report in the manner provided in ORS 192.245, including any recommendations for legislation, to the Governor and to an interim committee of the Legislative Assembly related to natural resources no later than July 1, 2014.

(6) Members of the task force are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out of funds appropriated to the department for purposes of the task force.

SECTION 19. (1) As used in this section:

(a) "Consensus" means that no more than one member of a subgroup or task force objects to the product of the subgroup or task force.

(b) "Seasonally varying flows" has the meaning given that term in section 1 of this 2013 Act.

(2) The Governor shall appoint a task force consisting, subject to subsection (3) of this section, of such members as the Governor deems to be appropriate and sufficient to 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 Governor shall consult with the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, the Minority Leader of the House of Representatives and the Water Resources Commission prior to making appointments to the task force under this section.

(3) The task force membership shall include, but need not be limited to, a subgroup for addressing the functional needs of watersheds for seasonally varying flows and a subgroup to address the financial feasibility of new water storage projects. Each subgroup must have at least three members. Subgroup members must be persons with expertise in subjects relevant to the work of the subgroup. Task force members who are not subgroup members must be persons representing the interests of irrigated agriculture, municipal water suppliers, counties, the conservation community, Indian tribes, irrigation districts and industrial water users.

(4) When carrying out its functions, the subgroup on functional needs for seasonally varying flows shall consider the biological, ecological and physical functions in watersheds during periods that are outside of the official irrigation season, including but not limited to:

(a) Stream channel development and maintenance;

(b) Connectivity to floodplains;

(c) Sediment transport and deposition;

(d) Migration triggers for upstream movement of adult fish and downstream movement of fry and juvenile fish;

(e) Fish spawning and incubation;

(f) Juvenile fish rearing; and

(g) Adult fish passage.

(5) When carrying out its functions, the subgroup on the financial feasibility of new water storage projects shall consider the practical aspects of developing and operating new water development projects, including but not limited to:

(a) Practical engineering methods and applications;

(b) The costs and benefits of the methodology and alternatives;

(c) The economic feasibility of water storage development; and

(d) The cost of complying with environmental benefit standards.

OREGON'S SENATE BILL 839 (2013), p. 10

Section 19, continued.

- Subgroup reports Feb. 1, 2014
- Task Force consider reports &
- Develop methodology for determining SVFs that:
 - optimize functional benefits to watersheds
 - recognize benefits won't occur unless storage is financially feasible
 - recognize new water storage will not be appropriate or feasible in many locations
- Use best available science
- Consensus / option for own report
- Report due July 1, 2014

(6)(a) The subgroups shall report their findings and recommendations to the full task force no later than February 1, 2014. The findings and recommendations of a subgroup must have a consensus of the subgroup. Any member of a subgroup who objects to the findings and recommendations of the subgroup may provide separate findings and recommendations to the task force.

(b) The task force shall meet at times and places specified by the Governor or a designee of the Governor. The task force shall consider the subgroup reports and by consensus develop a recommended methodology for determining seasonally varying flows that optimizes the functional benefits to watersheds while also recognizing that:

(A) Many of the functional benefits will not occur unless a new water storage project is financially feasible; and

(B) New water storage will not be appropriate or feasible in many locations.

(c) The recommended methodology developed by the task force must utilize the best available scientific knowledge. Any member of the task force who objects to the recommended methodology developed by the task force may provide a separate recommendation for a methodology to the parties receiving the report under subsection (7) of this section.

(7) The task force shall submit a report in the manner provided in ORS 192.245, including any recommendations for legislation, to the Governor, to an interim committee of the Legislative Assembly related to natural resources and to the Water Resources Commission no later than July 1, 2014.

(8) The Water Resources Department shall provide staff support to the task force.

(9) Members of the task force are not entitled to compensation, but may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses shall be paid out of funds appropriated to the department for purposes of the task force.

SECTION 20. (1) On or after the date that the Water Resources Commission receives a copy of the task force report required under section 19 of this 2013 Act, the commission shall adopt rules to establish a methodology for use in determining the seasonally varying flows for a stream of interest. In adopting the rules, the commission shall give consideration to adoption of the methodology described in the task force report. The commission shall complete adoption of the rule in time for the rule to take effect on January 1, 2015. As used in this subsection, "seasonally varying flow" has the meaning given that term in section 1 of this 2013 Act.

(2) The commission shall appoint the task force established in section 19 of this 2013 Act as provided in ORS 183.333 to act as an advisory committee to the commission for the consideration of rule adoption under this section.

SECTION 21. Section 13 of this 2013 Act becomes operative January 1, 2015.

SECTION 22. Section 18 of this 2013 Act is repealed on the date of the convening of the 2015 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 23. Section 19 of this 2013 Act is repealed on the date of the convening of the 2016 regular session of the Legislative Assembly as specified in ORS 171.010.

SECTION 24. In addition to and not in lieu of any other appropriation, there is appropriated to the Water Resources Department, for the biennium beginning July 1, 2013, out of the General Fund, the amount of \$30,000, which may be expended for providing services to the task forces created in sections 18 and 19 of this 2013 Act and for paying the expenses of the task forces.

SECTION 25. Notwithstanding section 3 of this 2013 Act, moneys may not be expended from the Water Supply Development Account for the construction of projects that:

(1) Impound surface water on a perennial stream;

(2) Diverts water from a stream that supports state or federally listed sensitive, threatened or endangered fish species; or

OREGON'S SENATE BILL 839 (2013), p. 10

Section 20, Water Resources Commission:

- Consider Task Force Report
- Appoint TF members as a rules advisory committee
- Adopt rules to establish a methodology for use in determining SVFs for a stream of interest
- Rules take effect Jan. 1, 2015

Section 21, 25, 26 prohibits funding certain projects until SVF rules are in place on Jan. 1, 2015

Section 22, 23, sunset TFs

(6)(a) The subgroups shall report their findings and recommendations to the full task force no later than February 1, 2014. The findings and recommendations of a subgroup must have a consensus of the subgroup. Any member of a subgroup who objects to the findings and recommendations of the subgroup may provide separate findings and recommendations to the task force.

(b) The task force shall meet at times and places specified by the Governor or a designee of the Governor. The task force shall consider the subgroup reports and by consensus develop a recommended methodology for determining seasonally varying flows that optimizes the functional benefits to watersheds while also recognizing that:

(A) Many of the functional benefits will not occur unless a new water storage project is financially feasible; and

(B) New water storage will not be appropriate or feasible in many locations.

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Overview of Economic and Science Subgroup Reports

ECONOMIC SUBGROUP

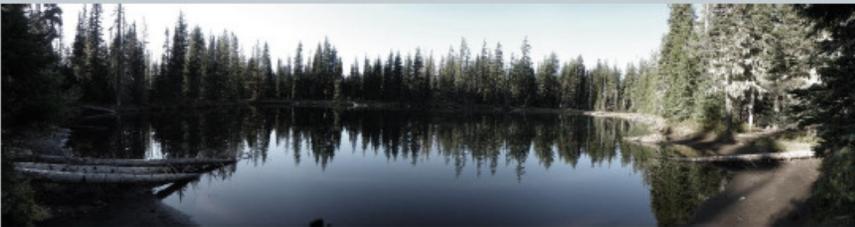


Richard Whitman, Convenor

- Dr. Said Amali, Integral
- Dr. Bill Jaeger, OSU
- Dr. Colleen Johnson, EQC
- Dr. Ray Jaindl, ODA
- Mr. Paul Matthews, TVWD
- Ms. Dawn Wiedmeier, USBOR

ECONOMIC SUBGROUP

Proposed Methods for Analyzing Feasibility, Costs, and Benefits
of Water Storage Projects in Oregon



Senate Bill 839 Economic Subgroup Report
February 1, 2014

Recommendations

1. Update water demand/need forecast.
2. Project design prepared and stamped by a professional engineer, licensed in Oregon.
3. Demonstrate project feasibility.
4. Use pre-application meetings.
5. Establish a Technical Review Team.
6. Other partners may help pay for public benefits of water storage projects. Use pre-application meetings to help determine such a role.

ECONOMIC SUBGROUP

Proposed Methods for Analyzing Feasibility, Costs, and Benefits
of Water Storage Projects in Oregon



Senate Bill 839 Economic Subgroup Report
February 1, 2014

Recommendations, cont.

7. Identify funds and parties who will bear the costs of project components.
8. Conduct a cost-benefit analysis of the project.
9. To estimate the value of irrigation water use the hedonic method.
10. Use real social discount rates of 2%, 4%, 6% to provide a range of results.
11. Use risk analysis to understand uncertainty around project assumptions.
12. Project design and plan must comply with env'tl standards in SB 839.

SCIENCE SUBGROUP



Brett Brownscombe, Convenor

- Mr. Don Anglin, USFWS
- Dr. Leslie Bach, TNC
- Dr. Tim Hardin, ODFW
- Dr. Valerie Kelly, USGS
- Mr. Ken Stahr, WRD

SCIENCE SUBGROUP

A strong consensus now exists within the scientific community around the need to maintain some semblance of natural flow variability to sustain the ecological health of river ecosystems and the array of goods and services they provide to society.

(Richter, 2009)

IN-DEPTH ASSESSMENT FRAMEWORK

- The POF Method gets quick access to some water, without expending much time or investment.
- To access water in different amounts or different times of the year than that allowed under the POF approach, applicants may use an

“In-Depth Assessment Framework.”

- Built on a literature review and practical approach, this framework focuses on the functions highlighted in SB 839, and their relationship to stream flow.

SCIENCE SUBGROUP

A Proposed "Percent of Flow" Approach
for Water Storage Projects in Oregon



Senate Bill 839 Science Subgroup Report
February 1, 2014

Recommendations

1. Use WRD's water availability model to determine whether and when water is available.
2. Establish base flows as a lower protective threshold.
3. Use a "percent of flow" approach to shape the timing and quantity of diversions.
4. Install stream gages according to WRD specifications.
5. Use the in-depth assessment framework for projects proposing a departure from the percent of flow approach.
6. Establish a Technical Review Team.

SCIENCE SUBGROUP

A Proposed "Percent of Flow" Approach
for Water Storage Projects in Oregon



Senate Bill 839 Science Subgroup Report
February 1, 2014

Recommendations, cont.

7. Use pre-application meetings to review and adjust hypotheses and proposed assessment methods.
8. Conduct a pilot program, monitoring conditions in projects that are early adopters of the P.O.F., in order to evaluate the effectiveness of this approach.

Schedule and Next Steps

Meeting Recap & Feedback

Public Comment