Oregon
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MEMORANDUM

DATE: September 25, 2012

TO: The Oregon Legislature

FROM: Phillip C. Ward, Director

SUBJECT: Implementation Report: HB 3369 (2009) Grant and Loan Funding Programs

Section 29 of House Bill 3369, passed in 2009, directs the Oregon Water Resources Department to report to the Oregon Legislature, no later than October 1, 2012, regarding operation of the loan and grant programs described in Sections 18 to 27 of Act. This language of HB 3369 now resides in ORS 541.600 to 541.641 and sections 20, 25 and 26, chapter 907, Oregon Laws 2009.

The components of the report should include:

1) The number and types of jobs created by water development projects receiving loans or grants from the department;
2) Any studies conducted by the department or loan or grant recipients during the 2009-2011 biennium regarding peak and ecological flows in streams;
3) Any recommendations by the department for legislative changes to improve the operation of the loan and grant programs;
4) Any recommendations for changes to Article XI-I(1) of the Oregon Constitution to be referred to the people;
5) The total economic public benefit, social and cultural public benefit and net environmental public benefit created as a result of loans and grants issued under sections 23 [541.631] and 25 of HB 3369;
6) An analysis of the effect of the requirement imposed under section 23 (2) of HB 3369;
7) Estimated increases in state tax revenues generated by projects receiving grants or loans;
8) The gross dollar value of issued loans, the amount of loan reserves and the increase the Water Development Fund attributable to the interest rate amount described in ORS 541.730 (3)(e); and
9) Moneys generated from fees under sections 19 [541.611], 20, 24 [541.636] and 26 of HB 3369. [2009 c.907 §29]

This document represents the complete report of the Water Resources Department on implementation of HB 3369; no executive summary is necessary.

The loan and grant programs established by HB 3369 are called the Columbia River Basin Water Development Loan Program and the Water Investment Grant Fund. They are further described below:

Water Development Loan Program
The Oregon Legislature authorized the Department to issue Article XI-I(1), Constitution of Oregon, bonds in the amounts of $15 million in 2009-11 and $10 million in 2011-13 to provide financing for loans for the construction of water development projects for irrigation, drainage, fish protection, watershed restoration and municipal uses and for the acquisition of easements and rights of way for water development projects authorized by law. During December 2010, the Department established Administrative Rules 690-095 for the Columbia River Basin Water Development Loan Program.

The loan program applies only to applications in the Columbia River Basin, thereby excluding projects in the Klamath, Goose Lake and Summer Lake, and Owyhee Basins. The loan program also excludes municipal water providers. Water users and lending professionals have reported that the application fee, interest rates, and environmental sideboards established in statute make this loan program prohibitively expensive to use. There have been no loan applications submitted to the Department.

Water Investment Grant Fund
The Water Investment Grant Fund, likewise, was established to pay the qualifying costs for the implementation of water development projects. The program is geographically focused on the Columbia River Basin, and excludes municipal water providers. The Oregon Legislature never capitalized the fund and there have been no grant applications submitted to the Department.

NOTE: Section 17 of HB 3369 also authorized a $2.5 million grant to the Umatilla Basin Aquifer Recovery Project for implementation of a project that has been in development, with state assistance, since 2008. The Project cleans surface water using artificial recharge techniques and then injects it into deep storage using aquifer storage and recovery techniques. Communities nationwide are following this project with interest, noting benefits to both irrigators and instream interests. The grant award has helped the project with: project management, property negotiation, site surveys, water right acquisition, project infrastructure design and engineering, project construction, and the delivery and monitoring of water during Stage 1 of the Project.

Peak and Ecological Flow White Paper
The authorizing language of HB 3369 directed the Department to protect "peak and ecological flows" as part of its loan and grant administration, beginning in January 2, 2012. To prepare, the Department convened a technical advisory group of water users and environmental groups to write a white paper, defining the terms peak and ecological flow, and documenting the methodology other states have used to measure and protect such flows.

The white paper was peer reviewed by scientists from both the water user and environmental sectors, as well as by the Independent Multidisciplinary Science Team (IMST). The white paper was finalized during December 2010 and posted on the Department's website: http://www.oregon.gov/owrd/docs/EFTAG_Final.pdf.

Recommendations
Increased participation in the loan and grant would enable the Department to collect the economic, social, and environmental data sought by the Legislature in HB 3369. Several factors might garner loan and grant applications, including: expanding the program to include a wider geography, expanding eligibility to include municipal water providers, and modifying the terms of the program to make grants and loans more attractive to potential applicants.