

**Meeting Minutes: SB 839 Kick-Off: Joint Meeting of
The Governance Task Force and
Seasonally Varying Flows Task Force**
August 15, 2014, 9:00 am to 2:00 pm
Oregon Water Resources Department
North Mall Office Building
725 Summer St. NE
Salem, Oregon 97301

TASK FORCE ON GOVERNANCE MEMBERS

Katie Fast, Dave Filippi, Patrick Griffiths, Teresa Huntsinger, Janet Neuman, Kimberley Priestley, Eric Quaempts, Gil Riddell, Tracy Rutten, April Snell, Jeff Stone, Brad Taylor, Chris Taylor

TASK FORCE ON SEASONALLY VARYING FLOWS (SVFS) MEMBERS

Dr. Leslie Bach, JR Cook, Katie Fast, Dr. Tim Hardin, Teresa Huntsinger, Dr. Bill Jaeger, Dr. Valerie Kelly, Richard Kosesan, Mark Landauer, Curtis Martin, Paul Matthews, Kimberley Priestley, Eric Quaempts, Gil Riddell, Tracy Rutten, April Snell, Jeff Stone, Joe Whitworth, Dawn Wiedmeier

FACILITATION TEAM

Richard Whitman, Office of Governor John Kitzhaber, Convener; Brenda Bateman, Oregon Water Resources Department; Racquel Rancier, Oregon Water Resources Department.

TASK FORCE MEMBERS NOT IN ATTENDANCE

Kimberley Priestly, Patrick Griffiths, Bill Jaeger, Dawn Wiedmeier, Amanda Rich.

MEETING OBJECTIVES

- ~ Introducing task force members and concepts
- ~ Reviewing the purpose of the task forces: (1) legislative direction and (2) final product
- ~ Getting familiar with the materials: SB 839 and reports of the economic and science subgroups
- ~ Setting schedule and next steps

MEETING SUMMARY

Richard Whitman opened the meeting and gave an overview of the agenda. He had task force members introduce themselves and state their interest in the task force work. The purpose of the initial meeting was to discuss process, and to set the stage for future meetings. As a general matter, the schedule of the Seasonally Varying Flows Task Force (SVFTF) is going to be front-loaded in order to get the work started quickly and make as much progress as possible early in the process. Richard invited members who sit on only one of the task forces to attend meetings for both the Governance Task Force (GTF) and the SVFT, noting that having a broad spectrum of involvement by task force members is welcome.

Richard stated that the Governor does want to attend a meeting of the task forces in the future. SB 839 is a historic initiative for the State, created by the Oregon Legislature in 2013 and launching a long-term program to improve both ecological outcomes in our streams and fisheries, and to provide economic development and job creation in our communities around the State. SB 839 was developed in a collaborative fashion in 2013. The spirit of collaboration and consensus is going to be important as the groups work through the remaining details.

INTRODUCTION OF TASK FORCE MEMBERS

Katie Fast – The Farm Bureau believes there are opportunities in the State for a public/private partnership around water development and wants to see it done in a way that is cost effective and provides multiple benefits.

Theresa Huntsinger – Participated in the workgroup that developed the legislation. Recognizes there are details to be worked out – the devil is in the details. Thinks it is possible that these water projects can provide both social and environmental benefits.

Tim Harden – Was on the science subgroup and works on a daily basis with Water Resources Department on flow recommendations. Is here to help look into the details.

Joe Whitworth – This is a confluence with past work in eastern Oregon – rebalance of water use and instream flows. Primary interest is in how you get what you need instream and also sustain agriculture.

Leslie Bach – Was part of science subcommittee for seasonally varying flows. Interest is in sustainable water management. Make sure ecosystems and the environment are accounted for when balancing water needs.

Jan Neuman – Committed moderate and committed collaborator. She was on the policy advisory group for the Integrated Water Resource Strategy. Oregon is behind on water investment. She is interested in smart water projects. Interested in getting beyond positioning stances.

Valerie Kelly – Served on science subgroup. Interested in forging path forward. Committed to the process.

Chris Taylor – Focus on Innovative Finance and Infrastructure, particularly in water delivery. How do we deliver the water infrastructure in the most cost-effective manner for end users. His background is in project development. Contribute knowledge of best practices that have worked elsewhere.

Richard Koesan. Following the development of SB 839. Interested in getting everyone together and balancing new storage with instream needs.

Tracy Rutten – Involved in efforts to pass SB 839. Interested in seeing process through. Interested in potential for future funding. Water certainty is critical for communities, residents, and economic development purposes. Need for additional storage while balancing instream needs.

Gil Riddell – Represents general government. Nexus with land-use process, need to know where water is in order to do land use/place-based planning. Foresees AOC being the convener.

Mark Landauer – Active in development of SB 839. Municipal supplier. Interested in long-term planning. Recognizes need to balance instream needs with consumptive needs.

Curtis Martin – Cattlemen recognize the need for balance, between agriculture, recreational, and consumptive purposes. Multiple-use concept is of interest. Need to think outside the box and recognize that Oregon has a diverse geography; the needs between the east and west side of the state are different.

Brad Taylor – Interested in having avenues available to address the challenges in front of us. We need to have more tools in the toolbox in order to achieve balance and meet the needs of Oregonians.

Paul Matthews – Participated in the economic subgroup. As someone with an economics and finance background, sees himself as a technician and a resource.

Dave Filippi – Has irrigation districts, municipal suppliers, and commercial and industrial users as clients. Has a diverse set of clients – none of which he is representing during his participation in the task force.

JR Cook - Interested in balance and restoration of native basalt aquifers and tributaries. Place-based planning is important and should lead to place-based implementation.

April Snell – Program important to members, who deliver to 1/3 of all irrigated land in the State. Wants to make sure there is grant and loan money available to improve water supply and delivery infrastructure. It is important that funding goes to multipurpose projects. Need to develop a collaborative and incentivized process to allow everyone to benefit. Challenge group to come together and develop a program that really works because failure is not an option.

Eric Quaempts – (via telephone) Interested in flows and the need to manage water for native fish species and sustainable harvest. Need to recognize that fish are a good food source for Tribes and all Oregonians and they are important to the economy of Oregon. Governance process should be transparent.

Jeff Stone – Not in the room for this portion of the meeting

ORIENTATION, FINDING MATERIALS, AND GROUND RULES

All meetings are public meetings; all materials and communications between members is public record. Meetings are recorded. If you want to send an email to the group, first send the email to Brenda Bateman (brenda.o.bateman@state.or.us) and Racquel Rancier (racquel.r.rancier@state.or.us). They will distribute the communication to the entire group. Materials for the meeting can be found on the web.

The Governor's Website on the Natural Resources page
<http://www.oregon.gov/gov/GNRO/Pages/index.aspx>

Oregon Water Resources Department - SVF Task Force
http://www.oregon.gov/OWRD/pages/SB_839_SVF_Task_Force.aspx

Oregon Water Resources Department - Governance Task Force
http://www.oregon.gov/OWRD/pages/SB_839_Governance_Task_Force.aspx

Archived Materials from the Economic and Science Subgroups
http://www.oregon.gov/owrd/Pages/OWRD_Work_Groups.aspx

DRAFT MEETING GROUND RULES

Whitman emphasized to members to not characterize positions of other TF members to the media or public. The group discussed that the use of delegates may be necessary because of the aggressive schedule. Limit the use of delegates to a minimum; use only on occasion. A conference line will be available to task force members for meetings. The group discussed the use of proxies and will try to adjust the schedule so that the use of proxies are not necessary. If you can make it to a meeting, 1st preference is to send a delegate, 2nd preference is to use a conference line.

Task Force Decision Making Process: For the SVFTF, SB 839 Legislation set the ground rules for decision making by consensus and the definition of consensus. For the SVFTF, SB 839 defines consensus as only one dissenting vote. The ground rule was not set for GTF; however, the goal is that both task forces have everyone on board.

It is important to keep the group working together as a whole and to not withhold concerns during the decision making process.

Legislation sets up SVFTF process – The SVFTF report goes to the Water Resources Commission (WRC), the Governor, and the Legislature. The WRC is tasked with appointing a rules advisory committee and entering into a formal rulemaking process to implement the report and recommendations. The legislation provides that the SVFTF members will be the rules advisory committee for the rulemaking. The report will be the basis for the rulemaking. The final decision on the rules is made by the WRC.

Agreed upon version of the ground rules are attached.

TIMELINES

Reports are to be done by the end of 2014 so that the formal rulemaking process for the WRC is ready to go. It is the goal to have the report and recommendations out at the beginning of the 2015 legislative session so that the Legislature can see the work product of the group. The Governor's office has a legislative concept that will change the timelines slightly to accommodate the process.

Snell asked how the work of the task force will relate to the scoring and ranking. Whitman responded that the legislation does call for a possible second rulemaking around criteria to score and rank projects. It does not make sense to have that work done separately; it should be rolled in to the work of the task forces. The intent is to have the work done by the GTF.

TIMELINE FOR IMPLEMENTATION:

The goal is to try to finish rulemaking for the SVFs, loans, and scoring and ranking criteria at the same time as the funding becomes available. SB 839 and the Lottery Bond Bill allocated Lottery Bond money for implementation. The lottery bond sale will occur in mid 2015, and funds will become available at that time.

SB 839 WALK THROUGH (See PowerPoint presentation from meeting 1 materials)

SB 839 is about funding a new water resources development program in Oregon. It attempts to set out the sideboards for a program and define the circumstances under which the State can participate in funding for projects. The funding need is far greater than resources that the State will provide. These will be partnership projects. Funding will come from local project proponents and hopefully some funding will come from the feds and some from the State as a gap fill. A lot of the work will be on medium and smaller sized projects. For larger projects, the state may participate in upfront feasibility costs. The bill creates the water supply development account and authorizes a pretty broad range of uses for the account – all the way from feasibility work to bricks and mortar work, monitoring costs, etc...there is a pretty broad range of uses for the fund that are authorized under the bill. The bill identifies sideboards for projects that can be funded.

Section 1: Definitions - Key Terms: Newly Developed Water, Seasonally Varying Flows.

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

Section 3: Establishes Water Supply Development Account and Eligible Projects.

Section 4: Establishes who is eligible. Entities who can receive funds is very broad – full range of public and private projects can be funded.

Section 5: Pre-Application Process and Screening.

Section 6: Application Criteria Details.

Section 7: WRC Rules for Scoring and Ranking Projects; WRD's review of applications, public notice and public comment; Role of Technical Review Team; WRC is the final decision maker. Note: Section 7, Sub 4 of bill: The WRC is not obligated to grant all monies during funding cycle, it can carry funding forward.

Section 8: Project evaluation and specifically the public benefit piece - project must demonstrate benefits in all of the three categories: Environmental, Economic and Social. Marrying up quantitative and quality pieces will be a challenge for the task force to define.

Section 9: Minimum Criteria – WRC develops scoring and ranking criteria. Projects need to meet certain outcomes.

Section 10: Key provision of bill for above ground storage projects that receive grants from the water supply account - 25 percent of the water must go to instream use.

Section 11: Projects must demonstrate benefits in all three categories: cultural/social, economic, and environmental. There are two ways to meet the environmental benefit piece.

Section 12: Water Instream – WRD must protect the water placed instream consistent with the water right priority date.

Section 13: Key for work on SVFs. If application for funding is a loan or a grant and it is for a new storage right, the SVFs apply. Snell raised the point that SVF flow work should be done by the state. Burden should not be placed upon project applicant.

Section 14: Permits must be in place.

Section 15: Loan Standards – will discuss this in Governance TF.

Section 16: Deals w/ Umatilla Basin, special rules, adjusting language of HB 3369.

Section 17: Same as section 16.

Section 18: Charge to Governance Task Force - Defining the role of the State is part of the charge to the governance task force. We want to have broader discussions on implementation. Develop what the overall program looks like.

Section 19: Charge to SVF task Force.

OVERVIEW OF SUBGROUP REPORTS

Brenda Bateman of WRD gave an overview of the reports written by the two subgroups: the Economic Subgroup and the Science Subgroup. Before public monies can be disbursed, we need to have SVFs established. Methodology for establishing SVFs was done as part of the Science Subgroup's work. Economic Subgroup looked at the economic side of the equation. SVFTF has been given dual role to review both reports.

Economic Subgroup Report (See meeting 1 materials)

Subgroup examined economic reality of storage projects. Looked at mismatch between precipitation in Oregon and when water is needed. Noted the changing form of precipitation that we are seeing due to loss of snowpack. The subgroup also looked at soil class and what the application of water could do for the value of soils. The subgroup concluded there is a need for water projects.

Types of engineering techniques for water storage were discussed in an effort to determine how to evaluate storage project proposals. The report is broken into two sections: "Could We" – i.e. Is there enough water to make this happen - and "Should We" are there sufficient social, economic and environmental benefits to store water. The group conducted a literature review and described how to evaluate different water storage projects. The group's recommendations are laid out on Page 25 and 26 of the report.

Filippi suggested conducting research on other available funding sources, so that the state would know what kind of project requirements and what kind of funding gaps exist at the federal level.

Science Subgroup Report (see meeting 1 materials)

The Science Subgroup looked at a methodology to determine SVF requirements when constructing a water storage project funded under SB 839. The subgroup conducted a literature review and consulted with experts and other states and jurisdictions. There is a strong consensus in the scientific community around the need to maintain natural flow variability to sustain the health of natural ecosystems. Based on this conclusion, the subgroup came up with a Percentage of Flow (POF) method. The group settled on 15 percent of flow for this method. The 15 percent number comes with caveats. This is a pretty practical method. If percent of flow doesn't work for the applicant, the alternative is an in-depth assessment. There are a lot of questions about the POF and in depth assessment methodologies (i.e. how it works, who's responsible, who pays,). The SVFTF will dive into these questions in future meetings. Science Group came up with 8 recommendations which can be found on page 21 and 22 of report.

It was mentioned that POF and in depth assessment is likely the most contentious aspect of this work group. Snell advocated looking at incentivizing programs and not making the process restrictive; we need more data, but we shouldn't put the burden on applicant.

Whitman wants to educate the group on the proposed SVF methodologies. Water Resources staff needs to identify studies from other states on cost/time.

Agenda Item for Future Meeting Primer on SVFs	Who OWRD Staff
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NEXT STEPS

Next series of meeting will be SVF focused.

TENTATIVE MEETING SCHEDULE

Sept 5, 2014	SVF Task Force	8am – 12pm
Sept 19, 2014	SVF Task Force	8am – 12pm
Oct 3, 2014	Governance Task Force	8am – 12pm

SB 839 Task Force Ground Rules

Principles for Cooperation

- Members should bring concerns from the interests they represent to the attention of the group, so that later surprises are avoided. Members should also work constructively to understand the concerns of others, and help to find ways to address those concerns.
- All meetings of the task forces will be open to the public. At the close of each meeting, the facilitator will typically allow time for public comment, taking into consideration the length of the agenda and the opportunity for Task Force members to speak on all issues.
- Members will treat each other with respect throughout the process. They will listen to each other to seek to understand each other's perspective, even if they disagree.
- One person will speak at a time and stay focused on the scope of work. To indicate an interest in speaking, members will turn name tent cards vertical. Members will participate fully in letting the group know their perspective on issues, their concerns, and their differing points of view in an effort to achieve a shared understanding and find common ground. At the same time, members will respect time constraints, and will share the speaking time with others. Members should seek to resolve differences and reach consensus.
- All members will act in good faith in all aspects of these discussions. This includes being honest and refraining from undertaking any actions that will undermine or threaten this process.
- All task force members agree to maintain the respectful tone of the meetings outside the formal meetings, including all email correspondence. Any reporting to constituents, the media, or other parties will focus on issues and not individuals.
- Members will refrain from generating controversy in the press and from publicly criticizing positions taken by other participants during the process.
- Members will not characterize or describe the positions of other task force members to the media or others, but will refer questions about others' positions to the other party.
- Members are reminded that all e-mail messages and written communications regarding the task force are likely subject to state public records laws, and likely subject to disclosure.
- E-mails for the entire group should be sent to staff, and distributed to the group by them.
- Please do your best to attend meetings in person, arrive on time, review necessary materials, and follow through on promises and commitments.
- Members may send a delegate in their place, if necessary. Members will minimize the use of delegates and notify the facilitator and staff in advance of the meeting.
- Audio tape recordings of each meeting will be posted online before the next meeting.
- Turn off cell phones or place in the non-ring mode during meetings

Governance Task Force Decision-Making

- When possible, decisions on the Governance Task Force recommendations will be made by consensus of all present participating members. Consensus means the willingness to go along with recommendations, either in active support of it or in not opposing it. Differences in opinion are to be expected in a group with such diverse perspectives and the group will work hard to reconcile them.
- If a consensus cannot be achieved, the staff will note where consensus was reached and where there are still points of disagreement. Members will have the opportunity to review, make corrections, and then sign-off on the report.

SVF Task Force Decision-Making

- Decisions of the SVF Task Force as a whole will be made by consensus. Pursuant to SB 839, "consensus" means that no more than one member of the task force formally objects to the decision.
- Consensus means the willingness to go along with recommendations, either in active support of it or not opposing it. Differences in opinion are to be expected in a group with such diverse perspectives and the group will work hard to reconcile them.

- Any member of the task force who objects to the methodology developed by the task force may provide a separate recommendation.
- Members will have the opportunity to review, make corrections, and then sign-off on the report and recommendations.