



Oregon Water Resources Congress



S D A O

Special Districts
Association of Oregon



May 3, 2021

To: Chair Senator Kathleen Taylor, Co-Chair, Representative Jeff Reardon, and Members of the Joint Ways and Means Natural Resources Subcommittee:

RE: Request to Fund the Willamette Reallocation Implementation Workplan

The above organizations are requesting funding to support a facilitated workgroup and associated workplan to implement provisions of the Willamette Basin Reallocation. Our respective organizations represent a variety of stakeholders, and while we sometimes disagree on policy or funding, we all care deeply about Oregon's water resources and are supportive of investment in a Willamette Basin Reallocation implementation workgroup. This effort is instrumental to ensuring the Reallocation is efficiently implemented by the State, through a phased and transparent approach with measurable milestones. **The estimated request is \$241,000 for a Willamette "complex basin" position within the Oregon Water Resources Department (WRD) and up to \$300,000 for facilitation services from the Oregon Consensus/Oregon Solutions.**

While the Willamette Basin may be viewed as water rich, there are a myriad of critical and complex issues that need to be addressed before on-the-ground implementation of the Willamette Reallocation occurs. These issues necessitate a structured, facilitated workgroup process with diverse stakeholders and impacted agencies, specifically the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Bureau of Reclamation, Army Corps of Engineers, and the National Marine Fisheries Service. This is not a request to bring stakeholders together for the sake of discussion (which occurred during the Army Corps led process) but to collaboratively develop outcome-based solutions to an identified list of complex issues specific to the Willamette Basin with relevant agencies and impacted stakeholders at the same table. These issues include but are not limited to: contracting process for accessing stored water, conversion of minimum perennial streamflows, protection of existing water rights and contracts, and identifying gaps in state and federal agency authority. The attached list contains many of the questions that need agreement from all agencies and stakeholders to move forward.

The stakes are high; the Willamette Basin has a diverse ecosystem, growing population, and some of the most fertile farmland in the state. The water stored behind the thirteen Willamette Basin reservoirs is equally critical to a number of interests: agricultural water suppliers, domestic and municipal drinking water suppliers, conservation interests, industrial users, outdoor recreation, hunting, fishing, and many other uses of Oregon's public's water.

Without a facilitated workgroup and workplan, this effort could devolve into litigation, further draining agency resources, creating unclear divisions of authority between state and federal agencies, and stymieing the collaborative efforts the state and diverse stakeholders have invested in the Reallocation process.

The Oregon Water Resources Department proposed a Policy Option Package (POP) in their Agency Requested Budget for 2021-23 that has workplan components necessary to start implementing the Willamette Reallocation process. Policy Option Package #113: Willamette Basin Reallocation: *“This policy option package will allow the Department to pursue the pre-implementation tasks of: the conversion of two storage water rights to expanded uses; contracting with the owner of the federal reservoirs; developing target flows below the reservoirs; and mapping out the process for conversion of minimum flows to instream water rights.*

The Department and ODFW propose to enter into a multi-year effort that will require several staff positions to coordinate basin activities, facilitate meetings, provide technical analyses, develop instream flow targets, manage the contested case process for minimum perennial flow conversions, and shepherd any necessary law changes. The project will undertake a significant stakeholder engagement and outreach program, so that the public is kept apprised and they have input on the planned changes in reservoir and streamflow management in the basin. The request is for one NRS 5 Willamette Basin Coordinator to undertake the coordination identified above...Without funding, Oregon agencies will not be able to timely implement the Willamette Basin Reservoir Reallocation to provide stored water supplies for municipal and industrial water users, secure water for agriculture irrigation, and provide for instream flow protections.

Additionally, without implementation, the performance standards identified in the National Marine Fisheries Services’ Biological Opinion tied to this reallocation will not be met. This could limit all users (both instream and out of stream) access to stored water, and result in non-compliance with the Biological Opinion increasing the likelihood of litigation.”

Professional facilitation is needed to ensure this complex issue can be addressed with numerous diverse stakeholders at the table. The Oregon Solutions/Oregon Consensus programs at the National Policy Consensus Center may be an appropriate convener and it is estimated this type of work can be initiated for \$300,000 for the 2021-22 biennium. We are open to other options that will bring together affected stakeholders and help agencies implement necessary components of the Willamette Basin Reallocation but have identified this pathway as the most cost-effective use of state resources and best way to achieve a positive outcome. WRD also needs \$241,000 for a Willamette “complex basin” (NRS 5) coordinator position to help with the Department’s significant role in these conversations.

We recognize the limited funding available and the challenges you have in balancing the budget, however; we feel strongly this complex issue warrants investment now so we can start work in the next biennium. Investing now in a facilitated workgroup to address the Willamette Reallocation will prevent additional expense to the state in the future. Without a structured process to collaboratively discuss and address the myriad of implementation questions there will likely be widespread litigation and numerous economic impacts to every sector impacted by the Willamette Basin Reallocation.

In conclusion, we urge the Joint Ways and Means Natural Resources Subcommittee to support general fund investment to fund the Willamette Reallocation Implementation Workgroup, for the benefit of all Oregonians.

Thank you for your consideration of our request.

League of Oregon Cities
Oregon Association of Nurseries
Oregon Farm Bureau
Oregon Water Resources Congress
Special Districts Association of Oregon
Trout Unlimited
WaterWatch of Oregon

Preliminary List of Questions and Issues Facilitated Process is Needed to Resolve:

1. What is the state's plan regarding conversion of the minimum perennial streamflows to an instream right (i.e. when and how will this occur)?
2. When will the Bureau of Reclamation file for a transfer and how will the Department move forward with processing the transfer? What will the injury review look like?
3. How will the pending reservations interact with the conversion of the MPS to an instream right?
4. How will the state deal with users who have been given "natural flow" water rights, but may be using stored water to meet that right? State will need to identify those users and determine whether they are given priority for contracts.
5. How will the new contracts interact with the existing contracts?
6. Will existing users get priority delivery over any new users?
7. What about allocation among users in the agricultural "bucket"?
8. How much will the contract water cost after reallocation?
9. How will prioritization be implemented in low-water years?
10. What certainty will each sector have in any water year, and when will they have it?