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**Testimony before the Senate Environment and
Natural Resources Committee
On SB 839
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Founded in 1968, the Oregon Environmental Council (OEC) is a nonprofit, nonpartisan, membership-based organization. We advance innovative, collaborative solutions to Oregon's environmental challenges for today and future generations.

Chair Dingfelder and members of the committee:

Oregon Environmental Council has been intimately involved in the negotiations to develop SB 839, and while some details are still left to be determined in rulemaking, we feel that the work group developed a bill that will result in water supply development projects that provide meaningful environmental benefits, while also meeting water user needs in a balanced way. It creates significant opportunities to provide state funding to expand water storage, water conservation, and in-stream flow projects to meet Oregon's water needs into the future, as identified in the Integrated Water Resources Strategy.

In my testimony I am referring to an amended version of the bill, which restores some of the workgroup's agreed upon language that was missing in SB 839's first draft.

Public Benefits Criteria

The Water Supply Development Account is designed around the concept that public funding should be used to provide public benefits, and it identifies three types of benefits that will be evaluated to select the most competitive projects for funding. Those are environmental, economic, and social or cultural benefits.

The details of how many points a project is awarded for each potential type of public benefit will be worked out in rulemaking, and we feel that is appropriate. It does give us some anxiety not knowing the exact details at this point, but we plan to be very engaged in the rulemaking process and we expect that people who participated in the workgroup that developed this bill will work in good faith to carry forward the concepts we have all agreed to. The detail that gives us the most anxiety is establishing minimum public benefits criteria. While the expectation is that the project selection process will be competitive and only the best projects receive funding, we really don't know how many projects will apply and how much funding will be available in future years. The rulemaking will establish minimum criteria to ensure that public funds are spent on good projects, not mediocre ones. If projects don't provide enough public benefit, they should not be funded. We believe the minimum environmental benefits should be equivalent to the level of benefits provided by protecting 25% of project water instream, but that level of detail will be determined in the rulemaking process.

Water for Water

For projects that divert water from Oregon's rivers and streams, we feel it is essential that those projects be designed to use a portion of that stored water to benefit streamflows during dry months. In other words, that their environmental benefit should be streamflow improvement because they are reducing streamflow during some times of the year. Washington's Columbia River program requires that one third of active storage be used to benefit stream flows, and Oregon's existing HB 3369 fund requires that 25% of project water be dedicated instream. In designing SB 839, water user groups wanted greater flexibility in providing the types of environmental benefits that would be most beneficial for each watershed and they disliked requiring an arbitrary percentage. What you find in this bill is a thoughtfully designed compromise that addresses the greatest needs and concerns of water users and environmental groups. We agreed to require that 25% of project water be protected instream only for grants for above-ground storage projects. All other project types, including loans for above-ground storage, and grants and loans for underground storage, have the option of meeting the 25% target or being evaluated based on a broader list of public benefits. When assessing those public benefits, for projects that divert water from Oregon's rivers and streams, higher points will be awarded in the ranking process for projects that measurably improve streamflows.

This greater flexibility was agreeable to us because experience has shown that with underground storage projects in the Umatilla and in Washington, it is difficult to determine exactly how much water is returning to the stream from underground flow. Washington is considering pumping water into the aquifer and then back out again in order to meet their instream requirements, which doesn't seem like an ecologically smart option, and it's one that doesn't fit for agricultural projects that let water recharge from the surface rather than treating it to drinking water standards and pumping it into the aquifer. Maintaining a hard and fast percentage requirement for grants for surface storage and using a broader public benefits analysis that prioritizes stream flow for other projects that divert water is a compromise that meets the needs of most water users and most of the conservation community. We believe this will result in projects that provide environmental, social, and economic benefits, including streamflow improvements, in a way that is workable and achievable for project applicants.

Seasonally Varying Flows

Another critical section of this bill for the environmental community is the section dealing with "Seasonally Varying Flows" (SVF). While there is water available during high flow periods that can be stored for later use, it is important to understand that the water flowing in rivers during winter and spring is not "excess" water going to waste. High flows perform important physical and ecological functions such as redistributing gravels in the streambed, and signaling to salmon and other anadromous fish species when it is time to migrate up or downstream. Under SB 839, instead of requiring project applicants to do their own assessment of high flow needs as is currently required under 3369, The Water Resources Department will work with ODF&W and affected Indian tribes to establish seasonally varying flow requirements for that watershed. Account moneys can be used to conduct that scientific work, and once it is done those SVF

requirements will remain consistent for future projects in the same watershed. After the Department has used current rules and policy to determine whether water is available for storage, the SVF requirements will condition the storage permit so that at certain times of the year, high flows are allowed to pass by the project. This solution provides greater certainty for project applicants, and it will enable storage projects to move forward while maintaining the seasonal variability in flow levels that keeps rivers alive.

Conclusion

Today the state has an opportunity to invest in a wide array of water projects, by establishing a fund that is designed to serve us for the long term. We believe this bill will ensure the state's limited resources are invested wisely, in projects that are selected competitively based on their ability to deliver real benefits. This balanced approach is the right way to address Oregon's instream and out of stream water needs today and into the future.

