

FINAL REPORT ON FUTURE FUNDING OPTIONS
FOR THE OREGON WATER RESOURCES DEPARTMENT

Final Report To The Water Resources Commission
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WRC Revenue Sub-Committee
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INTRODUCTION

With continued budgetary cutbacks the work of Oregon's Water Resources Department (WRD) has suffered and it is increasingly difficult for the department to carry out its mission and legal responsibilities. At its August, 2010 meeting, the Water Resources Commission's (WRC) Chair, John Jackson appointed a WRC Sub-Committee and charged it with analyzing the problem, meeting with stakeholders and developing funding options and to return to the WRC with options for consideration and possible endorsement. Chaired by Commissioner John Roberts, and along with members Jeanne LeJeune and Ray Williams, work began. As requested by the Commission - providing adequate funding for the Department has been on the agenda for each Commission meeting since August, 2010 with reports from both the Department and the Sub-Committee at each meeting.

The Sub-Committee then developed two overall goals and, in particular, the guiding principles were key to examining and weighing ideas that came forth.

Goal and Guiding Principles

It is the goal of the Commission:

To ensure that the Department is able to continue its mission and legally mandated responsibilities successfully, in service to Oregon's economy and environment.

To work with many state agencies, organizations and citizens in the successful implementation of the Integrated Water Resources Strategy.

The Commission's Sub-Committee Guiding Principles are:

Those who benefit should pay

Solutions should be equitable among water user groups

Fees should be dedicated to the purpose for which they are collected

Logistical considerations to implement the revenue sources must be reasonable

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Subsequent to meetings with the Department, the Sub-Committee met over two days in November, 2010 with representatives of over 30 organizations to gain their perspective on the Department's service cuts and funding and to gather funding ideas that would merit consideration. Through that effort 29 funding options were identified. There were some consistent comments received throughout those two days of meetings:

The Department has tried too hard to maintain service levels across the board and it is not sustainable.

The Department needs to market itself and show constituents its value; it has been too quiet for too long.

Tightly link the Department's Key Performance Measures to funding requirements.

Develop the case that a strong water resources program in Oregon can help to strengthen the economy.

Undertake a new prioritization exercise and show where programs will be cut to match funding levels.

The remainder of this report provides some brief additional background, and brings forth the final options that the Sub-Committee recommends be discussed further by the Department, the Governor and respective Legislative bodies.

BACKGROUND

- The total combined economic activity of Oregon's natural resource industries amounts to more than \$55 billion in output – 37% of Oregon's annual domestic product.
- 550,000 Oregonians work in natural resource-related fields or jobs supported by those industries, making up more than 1/3 of Oregon's employment.
- Manufacturing represents 6% of Oregon's diverted water and is the single largest contributor to Oregon's economy at \$30.2 billion.
- Agriculture and food processing contribute \$25.8 billion to Oregon's economy and 85% of the diverted water in Oregon is for irrigated agriculture. Irrigated farms produce about 77% of the total value of Oregon's harvested crops. Yields of some crops, notably grains, could increase up to 500% if water was available for irrigation.
- Municipal water use accounts for about 6% of Oregon's diverted water use and delivers drinking water to about 88% of Oregon's population.
- In recreational use, in 2008 Oregon residents and tourists spent over \$2.5 billion fishing, hunting, shell fishing, or watching wildlife.
- There are 100,000 miles of rivers and streams in Oregon, 360 miles of coastline and 1,400 named lakes and 1.2 million acres of wetlands to be managed. Oregon's 1970 *Scenic Waterway Act* protects more than 1,100 river miles for the beneficial uses of recreation, fish and wildlife - 2.8 million residents and tourists participated in fishing, hunting, wildlife viewing and shellfish harvesting in 2008.
- Oregonians hold 84,000 water rights permit and there are 230,000 exempt wells.

Our water resources are in danger:

- More than 1,861 water bodies are impaired and not meeting water quality standards.
- There are 14 “groundwater limited areas” in Oregon. Many of these areas have limited future groundwater uses since the early 1990’s. There are 7 existing “critical groundwater areas”.
- There are two “areas of withdrawal” that do not allow any future development of the groundwater resource.
- Most of the surface water resources in Oregon are fully allocated during the summer months and there is an inextricable link between ground and surface waters.
- 24 fish species have been identified as threatened or endangered and another 31 are listed as state sensitive species.

Oregon’s 12 natural resource agencies currently receive about 1% of the total General Fund revenues of which \$20.4 million is allocated to the WRD for the current biennium. There is no Federal backup or counterpart for the functions the Oregon Water Resources Department performs, as there are with most other natural resource agencies. To the Sub-Committee’s knowledge there has never been an analysis as to what an adequate level of funding should be to carry out all of the legally mandated water resource requirements and services.

In summary, for every \$1 General Fund investment in natural resource agencies, \$376 in economic activity is generated by Oregon’s natural resource sector. From the 1999-2001 to 2009-2011 biennium budgets General Fund investment in all state agencies has risen 31.33%, while the investment in natural resource agencies has declined 2.5%.

FUNDING OPTIONS

Assisted by staff, the Sub-Committee and subsequently the Commission reviewed all options on the table, comparing them to the guiding principles. Equity among sectors and tying any fees to those benefitting were particularly important. It became clear that Oregon’s water rights holders and exempt well users were significant in number, but services to them were being paid for by Oregon’s tax revenues, while many other services were at least partially fee supported. Once the analysis was completed a more equitable, fee-for-service supported funding package emerged. Following is a description of key funding options, a showing of the benefits and difficulties of each option. A Water Rights Management Fee Increased Cost Recovery for Water Rights Transactions and Expanding Existing Reimbursement Authority are recommended in the Conclusion and Recommendation Section.

Water Rights Management Fee

This fee would support management by the WRD of the 84,000 water rights already in place in Oregon, and, it would provide the science-based data required for day-to-day decision-making. A water right would come with an initial cost to acquire and then have a periodic fee associated with managing the protection of that right and tracking ownership, much like the DMV does with motor vehicles. The fee model illustrated here is based upon a \$100 annual fee per individual water right with a cap of \$1,000 for ten or more rights which would produce an estimated \$10,000,000 revenue per biennium after implementation and legal expenses. This cap could be modified or eliminated if deemed appropriate. Examples include: a \$500 cap for a farming entity if it has more than five water rights, and a \$1500 to \$2000 or even no cap for municipal water providers. The current General Fund budget for services related to protecting water rights and management of water supply (field services division) is \$9.1 million. These options are listed in no particular order.

Benefits

- 3.9 million Oregonians would no longer subsidize, via the General Fund, Oregonians who are holding water rights that run with their property.
- Would enable development of accurate Water Right ownership information:
This would provide the funding and impetus to update Oregon's water rights records, many of which still reflect ownership from the date of the original permit. This would be beneficial to both current water right holders and those seeking to acquire rights in the future, the administration and record keeping of water rights information by the Water Resources Department, and would assist the courts in resolving water rights disputes by having current ownership shown on the documents. Updating water rights to reflect current ownership is also one of the key recommendations in the Integrated Water Resources Strategy for Oregon which is expected to be implemented in 2013.
- Would enable hiring of needed field services personnel (assistant watermasters) to manage water allocations according to individual water rights. This would result in:
 - a. More timely distribution of water to senior water right holders
 - b. Faster resolution of conflicts between users
 - c. Better protection of instream water rights for fish, water quality, scenic waterways and recreation.
 - d. Greater economic opportunity due to increased certainty that water will be distributed according to Oregon law.
- Would enable development of the scientific information needed to make sound water management and allocation issues:
 - a. Installation of stream gages needed to measure stream flows.
 - b. Detailed ground water analysis.
 - c. Maintenance and processing of Oregon's "100 year water record".
 - d. Distribution of detailed information to local jurisdictions making planning decisions based on water availability.
 - e. Develop information needed to create long term plans for the management of Oregon's water resources through the Integrated Water Resources Strategy.
- Would enable more timely and scientifically supported permitting decisions:
 - a. Decisions based upon sound and readily available science protect current water users.
 - b. Decisions based on sound and readily available science protect the health of the water resource.
 - c. Decisions based on sound and readily available science protect current economic activity and provide a solid basis for future investment.
 - d. The availability of sound and readily available science allows for credible decision making in the permitting process which makes it less subject to legal challenge.
- Would enable collection of fees from other state agencies such as Parks and Recreation and Fish and Wildlife for their instream and ground water rights used to support tourism and recreation.

Difficulties

- The administrative and legal startup costs along with time required in the first biennium to “true-up” the names of the original water rights holders to the names of the current water right holders, update all needed management information, and legal challenges will reduce the projected revenue of \$10,000,000 through the first biennium by an estimated \$2,000,000.
- This would be a new fee to water users.

Water Rights Acre Feet Volume Fee

Staff were asked to look at an option that would derive revenue based on a fee related to the number of Acre Feet (AF/volume) used, and associated with a specific water right. The State of California imposes such a fee and assumptions used in calculating revenues/ costs were based on the California model only. Assumptions were that water consumption under 10 AF would not be charged a fee and above 10 AF would be charged \$.05 per AF with a cap of \$1,000 per water right. This means that if a water right has more than 20,000 AF, it is not charged more than \$1,000; there are 258 water rights that fall into this category in Oregon. Based on these assumptions staff estimates annual revenue would only be \$531,720. Removing the \$1,000 cap and setting the fee at \$.15 per AF would raise \$9 million annually. It was decided by the Sub-Committee to drop this option but since it came up often as an option we wanted illustrate that it had been analyzed and is in use in other places. Volume users could be assessed through Option #1, Water Rights Management Fee.

Benefits

- Revenue raised would help fund WRD’s services in the water supply management area.
- Methodology assigns a value based on quantity of the water right thereby addressing one of the equity issues perceived by those who believe large municipalities should “pay more”.

Difficulties

- Using the California model with caps; there would simply be not enough revenue raised.
- This would be a new fee to water users.
- There may be a disproportionate cost to hydropower generating companies and ultimately, customers.

Water Service Connection Fee

This is a fee for service to a community water supplier (a municipality, PUD, water authority, inter-governmental agreement agency, special district, or an irrigation district.) This fee is much the same as the basic fee imposed by the water utility currently. This fee could be a “pass through” cost that water utilities and irrigation districts would pass on to customers for each “connection” a customer has to the water supply, or it could be embedded in the rates. Large municipalities would have the highest numbers of connections, although many industries have multiple connections. One-million Oregon household or business connections paying \$10 each annually could produce approximately \$8.4 million net annual revenue in the first biennium after start-up expenses and nearly \$10 million in later years.

Benefits

- This should have reduced implementation costs over other options.
- As a “stand alone” fee this has the potential of raising more money than other options.
- Promotes equity among all water users if it includes exempt wells.

Difficulties

- If this is enacted along with a water rights management fee it would double charge the municipals and some special districts patrons, including the irrigation districts.
- There could be an equity problem because large users not obtaining water from community water systems or irrigation districts would not be charged, unless a water rights management fee were charged to those entities.
- The community water suppliers would probably need to modify their billing processes to accommodate this proposal if they chose the “pass through” billing method.
- This would be a new fee to water users.
- If this fee were enacted without the water rights management fee being enacted, the names on water rights documents would still not be trued up.

Exempt Use Well Fee

The model for this revenue is for an annual service fee of \$50 paid by owners of active exempt use wells. This has the potential of raising \$14 million per biennium based upon a fee of \$50 per exempt well. This assumes there would be about 170,000 owners of these wells (assuming there are 230,000 exempt wells and 60,000 of these would cancel).

Benefits

- This fee would enable the WRD to map Oregon’s groundwater critical areas in order to ensure groundwater is not over-allocated and prevent over-drilling in groundwater limited areas. It could enable the installation of well flow measure devices at an increased rate in these areas.
- Services to fee payers include comprehensive data collection, science to make informed regulatory decisions to protect senior water rights, and web publication of data for local planning and water supply evaluation.
- This fee ties to individual private benefits and relieves 3.9 million Oregonians from paying for the services through the General Fund. In combination with other options this would provide equity across all sectors although some users would have multiple fees depending upon their water usage.
- Management of groundwater resources is both a current expense and a future planning process at the state and local level. Funding from this source could be used for elements of the IWRS that provide services to fee payers such as data collection and analysis so that informed decisions to protect sensitive groundwater areas can be made.
- Helps to provide for resolution of well-to-well and well-to-surface interference/conflicts.

Difficulties

- This would be a new fee to water users.
- Considerable initial research would be necessary to implement; new revenue in first biennium would likely be in the range of \$1.5 million.
- Rural Oregon will be the largest source of revenue as exempt wells are typically held by households not served by community water suppliers.
- If the fee were too low it may not be cost-effective administratively. (It could be levied only once every two years.)

Increased Cost Recovery for Water Rights Transactions

The philosophy here is that this is a service benefiting a single user without a public benefit and that this philosophy could be transferred to a Water Rights Management Fee, an Exempt Well fee, and a connection

fee. Potential net revenue increase is estimated at \$600,000 annually. A cost recovery increase be phased in over several biennia although not a new fee, this increase would require Legislative approval.

Benefits

- This is an existing program with the public paying for 50% of the costs that benefits private users. It could be said there is no overall public benefit and this fee should be collected at 100% cost recovery.

Difficulties

- If this cost recovery were implemented too rapidly, it could be a financial burden for some.
- This would represent an added cost for some water transactions.

Expand Existing Reimbursement Authority

Currently the WRD administers a program that allows customers to pay the full cost of a water right transaction thereby decreasing processing time for all applicants even if they did not use the program. This is a current program that can be expanded and does not require a law change. Estimated revenue is only about \$100,000 annually.

Benefits

- This is a voluntary program that could be expanded to other WRD transactions for which it is not currently available.
- Allow additional customers to pay the full cost of a water right transaction and thereby decrease the processing time of their applications.
- This then also frees up the waiting time so that those who are unable to pay the full cost, and their applications can also be processed in a more timely fashion.

Difficulties

- This is an added cost for those applicants needing faster service.

Instream Fee (for scenic waterways, fish & wildlife, and water quality)

Note that these fees are already included and quantified under the Water Rights Management Fee option. Developing a plan for “instream” users to pay their fair share for the use of Oregon’s water resources has been difficult. Some State agencies responsible for collecting these types of fees feel there is a lack of direct connection to their programs and others say that the rules of their federal partners would make it impossible. The Oregon Department of Parks and Recreation, DEQ, and ODFW are responsible for applying for instream water rights so this Option would best accompany the Water Rights Management Fee option.

Benefits

- Achieves equity across all user sectors.
- Users would pay for part of the costs associated with providing and managing Oregon’s water resources needed to promote tourism and recreation.
- A variety of fees currently collected by other state agencies would be increased, thereby avoiding significant implementation costs.
- Sister agencies (OPRD, DEQ, ODFW) would be partners.

Difficulties

- Fee amount may deter some usage.

RECOMMENDATIONS

The Sub-Committee makes four recommendations to the Commission:

Recommendation #1. The options recommended for further discussion for future funding of the Department is for a combination of general fund and fee for service revenues. This will bring the Department more in line with the funding strategies of other natural resource agencies, (as well as non-natural resource agencies) and enable it to more realistically carry out its mission. Components of the funding strategy for further consideration are:

Funding Source/Base	Fee Amount	Fee Base	Total Annual Revenue	Net Annual Revenue
Water Rights Management Fee	\$100 annual	60,000	\$6,000,000*	\$5,000,000
Increased Cost Recovery for Water Rights Transactions to 80% from fees	Varies	from: 50/50 to: 80/20	\$1,600,000	\$ 600,000
Expand Existing Reimbursement Authority	Varies		\$ 100,000	\$ 100,000

* First year implementation costs will be reduced after the first 12-18 months.

The Governor’s Office has requested the following two options be given no further consideration at this time by the Water Resources Commission:

Exempt Well Fee	\$ 50 annual	170,000	\$ 8,500,000*	\$7,000,000
Water Service Connection Fee	\$ 10 annual	1,000,000	\$10,000,000	\$8,400,000

Recommendation #2. Any new fees should sunset after five years and be re-evaluated.

Recommendation #3. Any fees must show nexus with services provided.

Recommendation #4. The WRD and the Governor’s Office engage stakeholders as soon as possible in review of these options, as well as to communicate to the public at large and incorporate viable options into the new 10-year budgeting process.

CONCLUSION

Clean, abundant water resources, available when needed, all the while protecting the environment are absolutely critical to the future of Oregon and the robustness of our economy. Trying to identify adequate revenues for the WRD, in a time of economic stagnation is difficult at best. To do nothing puts the WRD’s legally required programs at risk. It is a new paradigm; the old ways will no longer work as we all struggle to revitalize our economy. To act now helps to protect, and enhance the 37% of Oregon’s annual domestic product and the accompanying 550,000 jobs related to water resources, and help lead to a faster economic recovery.

The Sub-committee would especially like to thank Tracy Loudon of the Administrative Services Division for his work in assisting the Sub-Committee to analyze various options.