



Senate Environment and Natural Resources Committee
Senator Chris Edwards, Chair

Testimony on House Bill 2400A

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Thank you for the opportunity to present testimony in support of House Bill 2400, a bill that would extend timeframes for implementing Senate Bill 839 (2013) and closes a loophole that would allow certain storage projects that receive funding to avoid seasonally varying flow requirements.

Background

In 2013, the Oregon Legislature passed Senate Bill 839, which established the Water Supply Development Account to allow the state to support water resources projects that provide social, economic, and environmental benefits. Funds from the Account can be used to provide loans and grants to a broad-array of projects, ranging from water storage to streamflow protection and restoration.

Task Force and Rule Adoption Timelines

SB 839 required the Governor, in consultation with Legislative leadership, to convene two subgroups and two task forces. The subgroups were appointed in late 2013 and the subgroups met their deadline of February 1 to report to the legislature. The two task forces were supposed to deliver their reports by July 1, 2014; however, the task forces had not been appointed in time to meet this deadline. By August of 2014, the task forces were appointed and convened their first meeting. The two task forces submitted their reports to the legislature in January and April of 2015. Since then, the Department has focused on getting the rules in place so that the Department can begin implementing the grant and loan program at the outset of the 2015-2017 biennium. The Department convened the Rules Advisory Committee beginning in February, which met on Fridays through most of April. On May 1, the Department opened the public comment period on the rules, and is targeting a June 2015 date for rule adoption.

Seasonally Varying Flows

SB 839 required that a water storage project funded from the Water Supply Development Account to leave flows instream that are needed to protect and maintain the watershed functions. These flows are called seasonally varying flows (SVF) and only apply to certain storage projects that receive funding from the Senate Bill 829 Water Supply Development Account. In reviewing the original SB 839 language during the task force meetings, it was pointed out that only storage projects requiring a “new water right permit or limited license” would trigger the requirement that the storage project leave these flows instream before diverting water. This created an

unintended loophole, as a water right permit for storage could be obtained prior to applying for funding, and, therefore, the project would not be subject to the seasonally varying flow requirement, even though the project had not been built. As a result, this could lead to a situation where project developers always obtain their storage permit prior to applying for funding from Senate Bill 839, thereby always avoiding the SVF requirement.

What the Bill Does

House Bill 2400A adjusts the deadlines for the two task force reports and extends the timeline to adopt rules to establish the seasonally varying flows methodology. House Bill 2400A also closes the loophole on the seasonally varying flow requirement, applying the requirement to certain storage projects that receive funding from the Water Supply Development Account regardless of when the water right permit or limited license was obtained for the project.