



August 29, 2016

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Re: Comments on SB 202 Task Force Draft Recommendations

Dear Mr. Behan,

Thank you for the opportunity to comment on the proposed recommendations of the SB 202 Task Force. These comments are submitted on behalf of the Oregon Farm Bureau, Oregonians for Food and Shelter, Associated Oregon Industries, Oregon Forest & Industries Council, Oregon Dairy Farmers Association, Oregon Seed Council, and the Oregon Small Woodlands Association.

We appreciate the Task Force's work over the last several months. It is obvious a tremendous amount of thought and effort went into drafting the recommendations. As outlined, the Task Force recommends creation of an Independent Scientific Review (ISR) process in Oregon. This process would be authorized by legislation and would consist of a three tier process for independent scientific review. This process includes a scientific review board, program support, and technical panels convened to review a specific question.

While we appreciate the Task Force's effort to design an independent and unbiased scientific review process for Oregon, given the extraordinary difficulty of eliminating perceived bias, we are highly skeptical that this process will produce any kind of consensus around answers to politically charged "high impact" questions. For this reason, and for the reasons explained below, we encourage the Task Force to recommend against the creation of an ISR process at this time.

Alternatively, if the Task Force decides to move forward with its existing recommendations, we recommend ensuring that the board and panel processes acknowledge the likelihood that any person with relevant expertise is also going to have worked for or been funded by a governmental, industry or non-governmental (NGO)

entity at some point, and ensure that a balance of scientific, legal and policy backgrounds is mandated to be represented in the process.

Comments on Findings

The benefits and risks of ISR outlined by the Task Force in Finding 1 appear to be comprehensive and are generally consistent with our experience with ISR, particularly the concerns about bias and risk of potential “capture” of the process by a stakeholder group or agency. We view this risk as significant. In our experience, ISR processes often fail to balance and effectively leverage diverse expertise on the issues they are convened to resolve. To this end, we are concerned with the definition of “Independent Scientific Review” on page 7. The definition contemplates only engaging reviewers who have little stake in the outcomes and decisions. While this would be ideal, in our experience it is impossible to actually achieve if one seeks to engage most subject matter experts on particular issues. For example, scientists often work for or are funded by interests that are connected to the scientific work they are researching, whether from the industry or NGO perspective. Eliminating experts who have worked for or have done projects funded by agencies, industry or NGOs may eliminate the entire field of experts on the issue the Board is seeking to resolve. While this may help achieve the goal of striking an “independent” review board, it would come at the expense of a deficient report.

Similarly, in Finding 3, the Task Force notes that one of the common themes in other state and federal ISR programs has been the diversity of the review panel make-up (pg. 10). This diversity includes diversity in the expertise of scientific expertise, but also diversity across sectors of society. We believe that this approach of acknowledging the potential for some level of bias or interest in a subject matter and ensuring to seek a balanced perspective across all those engaged as part of a review panel is the more appropriate approach to managing potential conflict concerns and ensuring balanced and unbiased work products. To ensure these interests are appropriately identified, we wholeheartedly concur with your recommendations to require all those affiliated with an ISR process to disclose and acknowledge all potential conflicts or other interests in the subject matter. We believe this has to include the funding source for any projects they have or are currently working on.

In addition, noticeably absent from the findings are any reference to state budget constraints. The Oregon natural resource agencies have received noticeable budget cuts over the last decade. In some cases, those budget cuts happened even as state revenues increased. Any discussion about the need for new or increased level of scientific review and analysis should also acknowledge the lack of state investment into programs, universities, and agencies that are charged with providing the “independent” scientific review.

Comments on Recommendations

As part of the recommendations, the Task Force recommends allowing governmental interests and other outside stakeholders to recommend projects for review (pg. 12,22). Given that the Task Force proposes not to allow the Board to accept outside funding, we are concerned with how the Task Force would fund this review. Perhaps more importantly, we are concerned that allowing for outside groups to submit proposals for review could breed the impression of bias within the Board depending on which group's proposals are selected and the Board's track record over time. We recommend against allowing outside groups to submit questions for review.

Regarding the recommendation to use an existing entity to coordinate the Oregon ISR process (pg. 14), we recommend that the Task Force also include as one of the criterion for this position that the entity selected to coordinate have a neutral governing board with no members who have ties or receive funding from governmental, state, industry or NGO entities. Alternatively, if such a mandate is impossible to achieve, the board must have equal representation from those interests.

Recommendation 3 – recommending new legislative authority – raises a number of concerns. First, recommendation (2) provides that the legislature ensure that state agencies are accountable to ISR findings and recommendations. Most natural resource agencies have a board or commission that oversee the agency and adding another board – the ISR – to provide direction to agencies will only complicate the state's ability to serve the public. Not to mention, this seems to go far beyond the intended scope of the ISR.

Second, recommendation (5) provides that the legislature may identify and provide funding to the ISR process and associated institutions. As highlighted above, funding is a key component to ensuring independent reviews can be achieved. It is critically important that the ISR's authority to receive funding be narrowly tailored, including funding avenues controlled by politics.

And third, the Task Force also recommends that the ISR be independent of special legislative oversight (pg. 16). We disagree, in part, with this recommendation. While we agree true independent scientific review should not be influenced by politics, it is unwise to completely remove legislative oversight if the legislature is responsible for funding the agency. Moreover, legislative oversight can help ensure that ISR is remaining neutral and meeting its core functions without having to resort to the extraordinary steps of removing funding or removing authorization for the ISR.

In Recommendation 4, the Task Force recommends creating an "independent scientific review board" that will be appointment by the governor and may include experts in the field of science, social science, law and policy (pg. 17). We do not believe this

approach will facilitate a balanced or independent scientific review process. Appointments by the governor's office can be quite political and controversial, particularly when it comes to natural resource issues. Given this reality, it is difficult to ensure a balanced set of appointments for any board or commission. Appointees are rarely without some ties to a particular interest, whether governmental, academic, industry or NGO. Given that the board is charged with selecting which reviews are taken and generating research questions, the potential for significant bias in these appointments is concerning. If the Task Force decides to move forward with the three tier process for running the ISR, we recommend that the authorizing legislation for the ISR contain a set of interests that must be represented on the ISR board, then use the selection criteria to evaluate applications from each sector.

In deciding whether to review a question, the Task Force recommends selecting "high impact" questions that may affect multiple agencies or provide information that will help resolve particularly complex natural resource issues (pg. 23). While we agree that the Board should prioritize natural resource issues and select the most important, the high "impact questions" are often the most political. As stated above, we are apprehensive about whether such questions can ever be approached in an unbiased way.

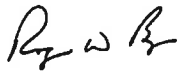
We agree that good policy requires good science, and to that end, we support healthy investments in natural resource scientific inquiry. However, we are not in agreement that the process suggested by the Task Force will produce any better outcome than the procedures already in place. Generally speaking, the broad, multi-disciplinary, "high impact" questions proposed for study are inextricably linked to controversial policy issues and, in our experience, are not generally conducive to independent scientific review. But even if they were, we are not convinced that the process outlined in the Task Force report would produce truly unbiased independent scientific review. Rather, it threatens to be an additional expensive layer of review that, in the end, produces little in the way of consensus.

Thank you for the opportunity to provide comments on the draft recommendations of the Task Force. Please do not hesitate to contact any of the below signatories with any questions or concerns.

Respectfully,



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