



TO: Joint Committee On Ways and Means Subcommittee On Natural Resources
FROM: Grace Brahler, Oregon Climate Action Plan & Policy Manager, Beyond Toxics
DATE: March 23, 2021
RE: Senate Bill 5545 (OWRD Budget)

Dear Co-Chair Taylor, Co-Chair Reardon, and Members of the Joint Committee On Ways and Means Subcommittee On Natural Resources:

Thank you for the opportunity to offer these comments in support of SB 5545. I received a law degree from the University of Oregon School of Law with a concentration in environmental and natural resources law. I focused predominantly on issues of water quality, quantity, and justice and work to support policies that ensure culturally-competent climate resiliency. I now serve as the Oregon Climate Action Plan and Policy Manager for Beyond Toxics, a statewide environmental justice organization advancing policies that ensure meaningful participation and cultivating grassroots leadership from Oregon's frontline and impacted communities. This role involves co-leading the Natural and Working Lands Tables (Forests & Agriculture/Water Sub-tables) for the Oregon Climate Action Plan (OCAP) Coalition, which engages at every step of the EO 20-04 implementation process, working to ensure the strongest possible outcomes for our climate, our communities and our economy. Providing adequate financial support to the Oregon Water Resources Department (OWRD or Department) is an important part of this mission and absolutely imperative given the current social, economic, and environmental challenges our society faces. I write in support of sufficiently investing in the OWRD and to highlight the following Policy Option Packages (POPs) in particular.

1. Policy Option Package #090: Equitable Water Access and Indigenous Energy Resiliency

First and foremost, we strongly support full funding for equitable water access and Indigenous energy resiliency as recommended by the Racial Justice Council. This package would enable community-led assessments of water needs of Black, Indigenous, Latino, Latina, Latinx, Asian, Pacific Islander, Native American, and Tribal communities. These communities have been historically underserved by and underrepresented in natural resource decision-making processes, yet they are on the frontlines of climate change impacts, natural hazards, and resource shortages. According to the agency, communities would be able to self-identify and begin to develop foundational relationships with OWRD staff. This is an important first step toward ensuring a more just water future for all Oregonians.

This package would also support a Justice, Equity, Diversity, and Inclusion Advisory Group as part of the Integrated Water Resources Strategy (IWRS). The IWRS offers a comprehensive framework for better understanding and meeting instream and out-of-stream water needs, including water quantity, water quality, and ecosystem needs. This framework was the product of extensive public outreach and will guide us forward as we adapt to and mitigate water challenges stemming from the climate crisis. We

know that the climate crisis did not emerge out of a vacuum: it is both a product of and exacerbates existing racial, social and socioeconomic inequities. Thus, in order for the IWRS to be a truly comprehensive, all-encompassing strategy to support Oregonians moving forward, it is necessary to involve all the needs and concerns of all Oregonians in formulating that strategy.

A Justice, Equity, Diversity, and Inclusion Advisory Group will ensure that the IWRS is evaluating the water needs of all communities in the state. In order to effectively bring this group to fruition, OWRD will need adequate funding to provide the proper support necessary to do so, such as allowing for flexible meeting schedules that accommodate individuals with limited availability, financial compensation for time spent and knowledge offered, and child care services or food for participants if meeting are not held virtually. OWRD will need to be able to provide educational materials in accessible languages and formats to the group to ensure participants have all the tools necessary to engage. Please maximize OWRD's potential to broaden the range of stakeholders with whom the agency typically engages and formulate a strategy that will result in a secure water future for all Oregonians.

Director Byler mentioned modifying this POP to include a position to assess and facilitate implementation of Diversity, Equity, and Inclusion at OWRD in his SB 5545 hearing presentation on March 17th. This position would help to lead an internal justice, equity, diversity, and inclusion work group within the Department, serve as the public advocate for the Environmental Justice Task Force, and assist with the cumulative impact analysis currently envisioned in SB 286, perform work to carry out Executive Order 20-04, and participate in the Interagency Workgroup on Climate Impacts to Impacted Communities. The position would convene and support the Advisory Group, participate in community-led conversations, build partnerships with community-based organizations, assist with updates to the 2022 Integrated Water Resources Strategy. The position would conduct outreach and build partnerships with community-based organizations serving Black, Indigenous, Latino, Latina, Latinx, Asian, Pacific Islander, Native American, and Tribal communities.

Water is a vital resource with deep significance to us all. This often leads to heated debates surrounding how best to address the water-related challenges we face. Establishing a point person to reach out to and build relationships with historically underserved communities and entities would be key to the success of OWRD's intentions to be more inclusive in their decision-making moving forward. This would enable OWRD to be more intentional and consistent in its engagement with a broader group of stakeholders. We strongly support the establishment of this position, in light of the benefits someone with knowledge of cultural differences and experience managing and resolving conflicts would undoubtedly bring to the Department and the potential to achieve the climate and equity goals set out in EO 20-04.

2. Policy Option Package #101: Protecting Public Safety and Water Supplies

It is essential that the Legislature invest in OWRD's ability to prepare for emergencies and increase our resiliency to natural hazards and climate change.

The average dam is 57 years old.¹ Seepage begins to erode dam foundations by that age while other parts are due for replacement.² Dam conditions must be comprehensively reevaluated based on our significantly increased understanding of hydrological data, earthquakes, and climate change.³ In response to Co-Chair Taylor’s questions at the public hearing for SB 5545 clarifying dam hazard ratings and knowledge of conditions, Executive Director Byler made it evident that much more information is needed to gain a full understanding of the status of Oregon dams so that we may be able to identify and prioritize which dams need immediate attention.

As climate change progresses, rainfall events will change in severity, frequency, duration, and timing. We have already seen examples around the country of how current dam infrastructure is ill-equipped to withstand these changes,⁴ threatening the safety of community members and dam operators and wreaking havoc on drinking water supplies. It is on us to learn from those examples and avoid placing our communities at risk.

Further, while dam hazard ratings take impacts to people and property into account, they often fail to consider long-term environmental and economic damage caused by the release of toxic sediments including agricultural pesticides or industrial chemicals.⁵ Introducing these toxics into the environment could lead to drinking water contamination or habitat degradation, problems that require complicated, expensive, lengthy fixes and can cause lasting damage to the health and wellbeing of residents and native species. It will cost us less to prevent damage than to attempt to repair it later.

The Big Creek Dams in Newport provides a sobering local example of the dire need to protect public safety through the proper evaluation of dams.⁶ The dams could fail at any time, leaving the city with only a day’s supply of water. If a catastrophic failure occurred, it would take years to restore the water supply. This would spell disaster for the city’s residents, tourism industry, and seafood processors. Further, Newport currently has to supplement its water supply with flows from the Siletz River. Upon repair, Newport would have a more sustainable water supply and important flows could remain in the Siletz River, which has experienced issues with water quality stemming from low flows in the past and struggled to support salmon and steelhead fish species that have unique significance to Tribal and Indigenous communities.⁷

3. Policy Option Package #104: Maintain Water Right & Dam Safety Services

¹ Leslie, Jacques. “In an Era of Extreme Weather, Concerns Grow Over Dam Safety.” July 9, 2019. Available at <https://e360.yale.edu/features/in-an-era-of-extreme-weather-concerns-grow-over-dam-safety>.

² Id.

³ Id.

⁴ Fountain, Henry. “‘Expect More’: Climate Change Raises Risk of Dam Failures.” New York Times. May 21, 2020. Available at <https://www.nytimes.com/2020/05/21/climate/dam-failure-michigan-climate-change.html>

⁵ Leslie. “In an Era.”

⁶ Lipp, Kenneth. “Newport plots future of its water supply.” November 3, 2020. Available at <https://newportnewstimes.com/article/newport-plots-future-of-its-water-supply>.

⁷ The Siletz River is home to the only wild summer steelhead run that begins in the Coast Range. Hall, Bennett. “Keeping It Wild.” Corvallis Gazette-Times. October 16, 2016. Available at https://www.gazettetimes.com/news/local/keeping-it-wild/article_6f4d5ac0-fb6d-570dae14-c5193c191ebd.html.

While we support investments made in adequate staffing of OWRD by way of POP 104's fee revenue increase, we are concerned about fee increase impacts to water users and how the increases could be offloaded to consumer community members. The fee based model has not been able to keep up with OWRD's expenses. Please note that while the fee increase proposition would retain three staff positions, OWRD would still lose five positions. While we support the fee increase outlined in POP 070 for the immediate retention of crucial positions, I encourage legislators to work with the Department and community members on moving beyond this outdated, unsustainable revenue model.

4. Policy Option Package #107: Protect Groundwater Supplies and Public Health

We support adding back POP 107, which was removed from the Governor's Recommended Budget, to the OWRD budget. POP 107 would increase OWRD's ability to adequately wells in Oregon.

There are currently five well inspectors tasked with inspecting wells for the entire state of Oregon. According to OWRD, about 3,000 new water wells and 400 new monitoring wells are drilled in Oregon each year, of which inspectors are only able to inspect roughly a third. Construction deficiencies in need or repair or abandonment are evident in 10-12% of the inspected wells. These wells are typically older and many well owners lack the funds to repair them. This puts well owners, their families, renters, and Oregon water supplies for the economy, communities and ecosystems at risk.⁸

OWRD has had to inform rural residents that the agency lacks the resources necessary to increase well testing frequency despite health and safety risks.⁹ Thus, the responsibility falls on the residents themselves. For example, 8,800 rural households in Benton County source their drinking water from domestic wells. While public water suppliers must test their water regularly, rural homeowners have no such requirement and are often unaware of hazardous nitrate contamination issues. This has caused residents to raise concerns about threats to local water supplies due to low summer flows and increased development and advocate for increased groundwater quality testing. High nitrate contamination is related to various negative health impacts including cancer, diabetes and reproductive health issues.¹⁰

POP 107 would support two well construction compliance reviewers to evaluate water well and monitoring well reports as well as one well construction specialist to ensure construction and repair requirements are met. Timely review will protect groundwater quality and avoid waste, which is increasingly important as water is a limited resource that must be conserved at all opportunities. POP 107 would also establish the Water Well Abandonment, Repair, and Replacement Revolving Fund to support well construction issues. The fund would prioritize low-income Oregonians, shared groundwater resources, and emergency measures to protect drinking water sources. This fund will benefit rural, low-income Oregonians with inconsistent access to clean drinking water. Investment in the health and wellbeing of those communities most vulnerable to natural hazards and climate change impacts are

⁸ OWRD. 2021-23 Agency Request Budget. Available at https://www.oregon.gov/owrd/WRDReports/2021-23_Agency_Request_Budget_Policy_Option_Packages_Only.pdf.

⁹ Hall, Bennett. "Alpine Residents Seek Help with Water Issues." Corvallis Gazette-Times. May 26, 2016. Available at https://www.gazettetimes.com/news/local/alpine-residents-seek-help-withwater-issues/article_9a5b00df-3a0b-5bc3-b239-36ff1247fea3.html.

¹⁰ "Southern Willamette Valley Groundwater Management Area." OSU Well Water Program. Available at <http://wellwater.oregonstate.edu/swvgwma>.

necessary to ensure that all Oregonians will be able to adapt to a changing climate, have access to clean drinking water, and minimize impacts to Oregon's groundwater sources.

5. Policy Option Package #108: Fund Planning, Feasibility Studies & Projects

Only a portion of POP 108 was included in the Governor's Recommended Budget. As a result, OWRD could lose a Planning Coordinator position and have less capacity to support place-based water planning, including but not limited to: helping groups finish and execute their plans, facilitate learning opportunities between locations, help groups understand agency data and technical information, and facilitate coordination with other agencies throughout the planning, review, and implementation stages. OWRD would have reduced capacity to reach out to and engage with stakeholders, thus increasing the probability that plans will be formed with only those stakeholders with the most resources and access to agency processes in mind. Further, this reduction alienates state agencies from what is taking place at the local level.

These impacts would negatively impact the future of Oregon's water. Based on a survey conducted for the Mid-Coast Water Planning Partnership with help from Oregon's Kitchen Table, feedback from nearly 680 people concluded that common shared values included 1) ensuring that residents have adequate supplies of water and 2) a significant interest in watershed restoration, storage, and conservation.¹¹ Most residents living in Oregon's mid-coast region also expressed a need for education surrounding local water issues.¹²

The importance of supporting the continued success of water planning initiatives cannot be stressed enough. If we are to meet the water needs of all Oregonians now and in the future, we need to make sure we are supporting and learning what we can from OWRD's initial planning efforts, as we are sure to need to expand the scope of the program later to accommodate other basins in need as the climate crisis exacerbates stresses on water supplies and community relations. If a planning coordinator is not retained, we risk letting the important work done to date go to waste. This is the opposite direction we need to move.

6. Policy Option Package #113: Willamette Basin Reallocation Pre-implementation

We support adding back POP 113 to ensure agencies will be able to 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. The Willamette Reallocation is a monumental task, the successful implementation of which will impact Oregonians for generations to come.

POP 113 would support the conversion of twenty-four minimum perennial streamflows within the Willamette Basin into instream water rights. A Willamette Basin Coordinator position would support the success of an interagency, multi-year effort to coordinate basin activities, facilitate meetings, provide

¹¹ "Oregon's Kitchen Table – Mid-Coast Water Planning." Oregon's Kitchen Table. May 2019. Available at <https://www.oregonskitchentable.org/sites/okt/files/results/Midcoast%20Water%20Report%202019.pdf>.

¹² Id.

technical analyses, develop instream flow targets, manage the contested case process for minimum perennial flow conversions, and shepherd any necessary law changes. This effort would also involve extensive outreach to stakeholders. Inclusive, accessible opportunities for public engagement in this massive shift in the operation of the Willamette Basin is essential. Proactive collaboration and engagement throughout the conversion efforts will help OWRD avoid legal challenges and associated costs, which has been a huge drain on staff and funding resources for the agency.

While I appreciate the enormous task before you of balancing a budget in the wake of a public health crisis, social turmoil and natural disaster response, I urge you to invest in Oregon's water future and support SB 5545. Thank you for your consideration and for serving Oregonians now and far into the future.

Sincerely,

Grace Brahler