



To: House Committee on Energy & Environment
Chair Marsh
Vice-Chair Helm
Vice-Chair Brock Smith
Rep. Kotek
Rep. Moore-Green
Rep. Owens
Rep. Pham

Date: March 31, 2021

**RE: Conservation Groups Support HB 2143 AS INTRODUCED --
Fairness and Function for Oregon's Annual Hydroelectric Fees**

Chair Marsh and Members of the Committee:

Wild Salmon Center, WaterWatch of Oregon, Trout Unlimited, and Oregon Environmental Council (collectively, "Conservation Groups") have a stake in improving agency processes that protect instream values and contribute to fair and predictable administration of our public water resources. That is why **Conservation Groups support HB 2143 as introduced**, which (1) simplifies the current annual fee structure for hydroelectric projects and restores fairness across fee payers, and (2) preserves service levels in hydroelectric programs at OWRD, ODFW and DEQ.

Oregon's salmon depend on careful stewardship of our state's water resources

It is no secret that hydroelectric projects can cause major problems for salmon -- fish that require access to habitat from headwaters to ocean. ORS 543.017 announces the minimum standards for hydroelectric projects when it comes to protecting Oregon's public interest in its iconic salmonids:

"The anadromous salmon and steelhead resources of Oregon shall be preserved.
The commission shall not approve activity that may result in mortality or injury to anadromous salmon and steelhead resources or loss of natural habitat of any anadromous salmon and steelhead resources except when an applicant proposes to modify an existing facility or project in such a manner that can be shown to restore, enhance or improve anadromous fish populations within that river system."

Staff at three state agencies -- OWRD (2.1 FTE), ODFW (7.0 FTE), and DEQ (2.05 FTE) -- play key roles in evaluating the potential impacts of hydroelectric projects, developing operating conditions to mitigate those impacts, and monitoring compliance. The fee revenues also allow the agencies to meaningfully engage in FERC post-licensing implementation processes to assist licensees and help ensure that the improvements to natural resources and water quality contained in FERC licenses are being realized over the long term of the license.

Fee-funded staff at OWRD, ODFW, and DEQ are critical for operation of the state's hydroelectric projects in the public interest

The hydroelectric programs of OWRD, ODFW, and DEQ are critical to the state's ability to fulfill its duties as steward of the public's water resources, with a shared mission to "protect the natural resources of this state from possible adverse impacts caused by the use of the waters of this state for the development of hydroelectric power." ORS 543.015. Funding for these program staff comes from annual hydroelectric project fees, which were first established in 1911 and last updated in statute in 1999. Fees are collected by OWRD and passed through to ODFW and DEQ. Fees for large projects (greater than 123.5 theoretical horsepower, or "THP") are set on a sliding scale, whereas smaller projects under the 123.5 THP threshold pay a flat fee of \$15 or \$50 depending on relicensing status and size. This makes sense, since big projects have both a larger impact on the public interest and a greater capacity to recover mitigation costs through sale of generated power.

The 1999 fee structure punishes relicensed projects and threatens the relicensing process itself

Under the current system, large hydroelectric projects pay a lower annual fee while the project is undergoing relicensing -- \$0.30/THP up to 50 THP, and \$0.28/THP for each THP in excess of 50 THP. These fees are set in ORS 543.710 and have not been adjusted since they took effect in 1999.

In contrast, the annual fee for relicensed large projects is adjusted automatically based on inflation. Originally set at \$0.405/THP, inflation over the past two decades has driven up these fees by 50%: in 2020, the annual fee for relicensed projects stood at \$0.605/THP -- more than twice the rate charged to projects undergoing the relicensing process. Meanwhile, some complex large projects have been undergoing relicensing since 1999 -- selling power to customers while paying an ever-shrinking fraction of the annual fee rate paid by large relicensed projects.

The current system was not built for multidecadal relicensing processes, and it has resulted in unfair consequences, in effect punishing projects that have completed relicensing. It is also resulting in growing threats to the fee-supported programs necessary for relicensing to proceed and for ongoing protection of public interest values. DEQ began experiencing revenue shortfalls in the 2019-21 biennium which they have managed administratively to avoid staff cuts, and ODFW and OWRD expect shortfalls in the coming biennium. Without additional fee revenue in the 2021-2023 biennium, the agencies will be forced to reduce service levels and cut existing positions in their respective hydro programs. HB 2143 as introduced fills the gap and keeps these programs whole.

HB 2143 restores fairness and simplicity

HB 2143 eliminates the outdated division between "relicensed" and "relicensing": beginning in 2021, all large projects would pay the same rate of \$0.687/THP, adjusted annually and automatically to account for inflation. Small projects (less than 123.5 THP) would continue to pay the flat fee of \$15 or \$50, with no inflation adjustments. This preserves the status quo for the majority of hydroelectric projects that are either relicensed or small, while addressing the inequitable fee structure that benefits the roughly 20 large hydroelectric projects undergoing relicensing.

We support HB 2143 as introduced as a fair and reasonable approach that offers the best available path for preserving core capacity in OWRD, ODFW, and DEQ. We ask that you pass this legislation to Ways and Means without the -1 amendments that would delay fee increases and threaten the ability of the agencies to perform their duties both to fee payers and to the public.