

TO Co-Chairs Walker and Jenson, and
Members of the Natural Resources Subcommittee of Ways & Means

FM Kristina McNitt
On behalf of a water coalition including
Oregon Water Resources Congress
Oregon Farm Bureau Federation
Oregon Association of Nurseries
Special Districts Association of Oregon

RE: ODFW Budget HB 5014
Oppose Policy Option Package #105

March 19, 2009

Co-Chairs Walker and Jenson,

For the record, I am Kristina McNitt, representing the Oregon Water Resources Congress. In the spirit of yielding time and sharing common interests, I am here today on behalf of a coalition of water interests that, in addition to OWRC includes the Oregon Farm Bureau, Oregon Association of Nurseries, and Special Districts Association of Oregon.

As a group, we share a universal concern about the reduced level of funding in the Governor's Recommended Budget for natural resource agencies – net General Fund dollars for these agencies decreased by 12.7% from the 2007-09 approved levels. At the same time, the GRB does not continue key functions in some agencies and yet in others contemplates new programs and new positions.

Specifically, we are concerned in this budget with *Policy Option Package #105 Fresh Water Management and Ocean Energy Management*.

ODFW's POP #105 contains \$298,722 to fund two new positions, one of which is a water quality/quantity position within ODFW that would "address water development issues related to the stream flow needs of fish and wildlife as the demand for water increases as the state continues to grow."

While the agency narrative quoted here sounds good, and discussion in committee yesterday keyed in on the importance facilitating in-stream water rights and protecting minimum stream flows, this position actually provides funds to ODFW to work on something entirely different-- peak and ecological flow analysis.

Peak and ecological flow analysis is an emerging and variously-defined protocol that has shifted away from its original purpose with respect to flooding and basin yield predictions to a new effort that would presumptively protect peak (mostly winter) stream flows from appropriation during certain stream flow events. The supposed purpose of

protecting peak and ecological flows is to preserve fishery and habitat benefits of natural flood flows.

Several concerns surround this POP:

- The loosely defined functionality of the new position;
- The lack of funding for a corresponding position within the Department of Water Resources to balance fish and habitat protections with hydrologic flow data (these positions were both pieces within the Governor's H2O Initiative);
- The potential to upset the current balance between competing water uses; and
- The impact of additional restrictions on the development of Oregon's future water supply – especially supply that might utilize traditional or aquifer storage.

The issuance of water rights involves the balancing of various interests and needs through a public process. As a coalition, we share concern that funding this position has the very real potential of elevating a particular interest – flood flows for fisheries and habitat – at the expense of other uses by removing otherwise available water from the state's water rights permitting process, altogether.

Unlike the in-stream water right application process which requires ODFW to go through a public permitting process that requires the department to apply for, justify the need for, and document the public benefit of each particular in-stream water right (which is the same process required for a new water right for any proposed use), peak flow potentially reverses the presumption and outright protects flows from all other uses that otherwise might have been approved through the normal balance of competing interests in a public permitting process.

Last Friday, legislative leadership provided instruction to agencies through LFO to identify General Fund cuts up to a 30% reduction level. We'd respectfully submit that the funds identified for this position will be critically required for other purposes.