



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Phillip C. Ward, Director

SUBJECT: Agenda Item M, November 19, 2010
Water Resources Commission Meeting

Request for Adoption of Rules Necessary to Administer the Columbia River Basin Water Development Loan Program established under House Bill 3369, OAR Chapter 690, Division 95

I. Issue Statement

The Commission is asked to adopt rules relating to the Department's administration of the Columbia River Basin Water Development Loan Program established under House Bill 3369 (2009). This program provides financing for loans for the construction of water development projects in the Columbia River Basin. The proposed rules incorporate provisions required under HB 3369 and provide procedures and requirements for the administration of loans from the initial application to final approval of a loan. The final proposed rules are provided in Attachment 1. Administrative rules to be used in assessing the net environmental public benefits of a project are not proposed as part of this rulemaking.

II. Background

HB 3369, signed by the Governor on August 4, 2009, makes changes to the constitutionally established Water Development Loan Fund, among other things. The Bill required, that the Commission adopt rules establishing standards for borrowers obtaining loans from the Water Development Loan Fund.

A rules advisory committee (RAC) was established and meetings with members of the committee occurred during the month of August. On September 1, 2010 notice of public rulemaking was published in the *Oregon Bulletin* and a hearing draft of the proposed rules was made available on the Department's website. Public Hearings occurred on September 22 in Salem and September 29 in Hermiston.

III. Discussion

It was determined by the Department that a new Division 95 should be created to address new requirements of HB 3369 and to clearly delineate between the new Columbia River Basin Water Development Loan Program and the older Water Development Loan Program, both operated

under authority of Article XI-I(1) of the Oregon Constitution. HB 3369 added new requirements to strengthen the financial standards to ensure repayment and adequate loan security. These requirements are the subject of today's rulemaking.

Requirements for project documentation were also enhanced with a focus on expected economic, social and cultural, and net environmental public benefits. Consultation with the State Department of Fish and Wildlife, the State Parks and Recreation Department, the Department of Environmental Quality and affected tribal governments is required as a step in the assessment of the project as well as a 60-day public notice period.

IV. Rulemaking Process

A Rules Advisory Committee (RAC) was appointed by the Department to assist with the development of the rules. The RAC met August 25, 2010. A hearing draft set of proposed rules was prepared by staff based on input from the RAC. The members of the RAC included Cindy Finlayson from the Umatilla Electric Cooperative, JR Cook from the Umatilla Basin Water Commission, Shelly Cullin from Oregon Housing and Community Services, Laura Lockwood-McCall from Office of the State Treasurer, and Cynthia Byrnes from the Department of Justice. Also asked to participate was Mark Dickman from Dickman Farms he was unable to attend the meeting due to a schedule conflict.

The Department submitted a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact to the Secretary of State for publication on September 1, 2010 in the *Oregon Bulletin*.

The public comment period was open from September 1 until 5:00 pm on September 30, 2010. In addition to the opportunity to provide written comment, public hearings were held in Salem on September 22nd and in Hermiston on September 29th. The public hearings were lightly attended and the Department received written comments, provided in Attachment 2, from five individuals:

Individual	Representing
J.R. Cook	Umatilla Basin Water Commission
John DiLorenzo, Jr.	Umatilla Electric Cooperative
Kimberley Priestley	WaterWatch
Kristina McNitt	East Valley Water District
Anita Winkler	Oregon Water Resources Congress

Department's response to comments received is included as Attachment 3.

V. Summary

Based on public comment taken through September 30, 2010, staff modified the hearing draft of the rules issued September 1, 2010. The final proposed rules providing procedures and requirements for the administration of loans in the Columbia River Basin Water Development Loan Program.

V. Alternatives

The Commission may consider the following alternative actions:

1. Adopt the final proposed rules in Attachment 1.
2. Adopt modified final proposed rules.
3. Not adopt the proposed rules and request that the Department further evaluate the issues.

VI. Recommendation

The Director recommends that the Commission follow Alternative 1 and adopt the final proposed rules included as Attachment 1.

Attachments:

1. Final Proposed Rules.
2. Written Comments Received
3. Department's Response to Comments Received

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