



October 7, 2019

Oregon Fish and Wildlife Commission
4034 Fairview Industrial Drive SE
Salem, OR 97302

VIA EMAIL: odfw.commission@state.or.us

RE: Comments on the Oregon Conservation and Recreation Fund Rulemaking

Dear Chair Finley, Director Melcher, and Members of the Commission:

Thank you for the opportunity to comment on the draft rules for the Oregon Conservation and Recreation Fund. The Oregon Farm Bureau, Oregon Cattlemen's Association, Oregon Forest & Industries Council, Oregon Small Woodlands Association, Oregonians for Food & Shelter, and Oregon Seed Council represent farmers, ranchers and foresters across the state. Collectively, our members provide a significant portion of the fish and wildlife habitat in the state, with some estimates stating that nearly 70% of fish and wildlife habitat occurs on private lands. We write to express our concerns about the Conservation and Recreation Fund Advisory Committee ("Advisory Committee") funding direction, composition and process for accepting proposals.

Background on the Oregon Conservation and Recreation Fund

Our organizations have been engaged in the process around the development of the Oregon Conservation and Recreation Fund for the past several legislative sessions. We closely followed and testified on previous iterations of the bill that ultimately became HB 2829. Representative Helm clarified on the record that the intent of HB 2829 was to help implement the recommendations of the Oregon Department of Fish and Wildlife ("ODFW") Funding Task Force that met in 2015-2016, and noted that to the extent the fund is used on private land, the intent is for the fund to be used on collaborative projects with landowners, and not acquisition of farm or forestland.

Our understanding of HB 2829 was that it was to serve as the stateside match funding if the federal Recovering America's Wildlife Act ("RAWA") passes through Congress. However, we recently learned that the intent for the upcoming funding cycle is for ODFW to raise \$1 million from private sources to serve as match funding for the \$1 million allocated by the legislature for the fund. We have a strong interest in ensuring that to the extent there are habitat projects that are funded through this Fund, those projects are collaboratively developed with landowners and that there is representation from the natural resources community on the Advisory Committee.

Comments on the Draft Rules

1. Dedication of Funding

During the process for developing HB 2829, our organizations expressed concern regarding the very broad list of priorities for the fund contained in Section 1(2) of the bill. Historically, our organizations have been concerned with ODFW funding projects that result in the acquisition of farm, ranch, and forestland, and the subsequent removal from production and public use of the property that often has an adverse impact on natural resource neighbors and communities' agriculture and forestry infrastructure. We have long encouraged the department to move toward a "working landscapes" model of conservation, where they work with landowners to achieve the desired habitat goals instead of acquiring land and removing it from production.

The broad list of allowed uses in HB 2829 made it difficult for our organizations to understand where the money would be spent and on what types of projects. In raising this concern with the legislature, we were assured that the funding would be directed toward the priorities contained in the Task Force Recommendations, and that the money would not be used for acquisition projects. We would like to see this language in the rules. Specifically, we request that you add language under Section (2) "Advisory Committee Duties" as follows:

635-098-0060

Advisory Committee Duties

(2) Shall make recommendations to the commission and the department regarding the use of fund moneys. Pursuant to HB 2829 (2019), the advisory committee shall identify uses for which the department may expend fund moneys. **In expending moneys within the purposes allowed by HB 2829, the advisory committee will use the recommendations of the 2016 Funding Task Force to guide expenditures. In investing funds in habitat work, the advisory committee will prioritize projects that are the result of collaboration between diverse groups of stakeholders.**

2. Advisory Committee Membership

Our most significant concern regarding the draft rules relates to the make up of the Advisory Committee. As presently drafted, the advisory committee does not require any representation from rural communities and does not prioritize having even a single member from the natural resources community. This is despite the fact that ODFW has indicated numerous times that the intent is for many of the habitat projects funded under this program to be in partnership with the natural resources community. We are concerned that if there is no voice from farm or forest landowners and managers, the committee will be missing a critical voice as it decides how to engage stakeholders in soliciting a wide array of proposals and vetting proposals to ensure they are going to improve fish and wildlife habitat while not negatively impacting the economic base of a community. As we stated above, with private landowners providing a significant portion of habitat in the state, not soliciting their participation in the advisory process leaves a critical demographic out of this process and ultimately makes it less likely to succeed.

Specifically, we recommend that if the Commission moves forward with the recommendations for membership by Oregon Conservation Strategy regions, the Commission require that members live in the regions they will represent and that at least one of the at large members be a natural resource landowner or manager with experience working on collaborative projects.

635-098-0040

Membership

(1) Advisory Committee Composition:

(a) The advisory committee shall consist of nine members appointed by the Governor.

(b) Six members of the advisory committee shall live in ~~or possess demonstrable expertise related to~~ each of the ecoregions described below, which are documented and described in the Oregon Conservation Strategy:

(A) Nearshore Marine or Coast Range

(B) Willamette Valley

(C) Klamath Mountains

(D) West Cascades or East Cascades

(E) Columbia Plateau or Blue Mountains

(F) Northern Basin and Range

(c) Three members of the advisory committee shall be appointed from Oregon-at-large. ~~These three~~ **Two of these** members shall have an interest in fish and wildlife conservation or outdoor recreation, especially wildlife-associated recreation such as wildlife viewing, nature photography, nature tourism, outdoor education, or community science. **One of these members should own or manage private agricultural or forest lands and have demonstrated experience working on collaborative projects.**

(d) In making appointments of ~~all nine~~ advisory committee members, consideration should be given to appointing members who possess experience engaging youth, underserved communities and diverse audiences in conservation and recreation activities. Consideration should also be given to members with **demonstrated** interest in the economic, social, and educational benefits of healthy ecosystems.

(e) Consideration should be given to ensuring that the advisory committee membership reflects the demographic and geographic diversity of Oregon.

(f) One member of the Oregon Fish and Wildlife Commission may be designated by the Commission as a non-voting participant in the Advisory Committee.

(g) The Director of the Oregon Office of Outdoor Recreation may serve as a non-voting ex officio member of the advisory committee.

We would also like additional clarification on the difference between a Commission member being “non-voting participant” and the Director of the Oregon Office of Outdoor Recreation serving as a “non-voting ex officio member.” What is the difference between “non-voting participant” and “non-voting ex officio member”? Does the ex-officio member not get to participate? Or is the Commissioner not a member of the Committee? These terms should be better defined and harmonized, with the roles of each clearly stated.

The changes requested to this section are critical for creating buy in among the natural resources stakeholders whom ODFW hopes to work with under this program.

3. Proposal Process

We also have concerns regarding the proposal process outlined the draft rules. We regularly work with grant programs under the Oregon Watershed Enhancement Board, Oregon Water Resources Department, Department of Environmental Quality and other agencies. The process outlined in the proposed rules is the most open-ended and least robust out of any of the agency programs. We have concerns this will impede the public's ability to participate in the process and understand the decisions made by the Advisory Committee.

As an initial matter, we are unclear on the difference between the proposed OAR 635-098-0070(1) and OAR 635-098-0070(2). If the Advisory Committee is establishing a process for requesting proposals under Subsection (1), why aren't the department and interested parties expected to follow that process under Subsection (2)? The process adopted by the Advisory Committee should be followed by everyone and no one should be able to recommend proposals outside that process. To this end, we recommend removing the proposed Subsection 2 of this rule.

We also recommend adding a new Subsection 2 that prescribes some sideboards on this process in terms of how the grant process will actually run and whether it will be transparent to the public.

Finally, we again recommend that you reference the purposes of HB 2829 when talking about review criteria to avoid creating a new, undefined set of review criteria.

635-098-0070

Advisory Committee Recommendation Procedures:

(1) The advisory committee shall establish a process for requesting proposals for Conservation and Recreation Fund projects from the department and other interested parties.

(2) The process must be available to the public online. In developing the process, the advisory committee shall, at a minimum, create a plan for soliciting proposals from a diverse group of stakeholders, develop a proposal form to be made available to the public and posted on the Department's webpage, create proposal deadlines and defined funding cycles, and develop clear criteria for reviewing and ranking projects that will be made available prior to soliciting proposals. Any proposals received must be posted on the Department's website within one week of the proposal deadline. The Department will then notify the public of the availability of the proposals online and will solicit comments on the proposals from the public for a period of no less than 14 days.

~~(2) The department and any other interested parties may recommend projects to the advisory committee that follow permissible purposes outlined in [HB 2829 Section 1(2)(a-e)].~~

(3) **Using the criteria developed under Section (2), the advisory committee shall review all submitted projects and shall recommend expenditures to the commission. The advisory committee will be responsible for determining whether the projects propose activities ~~that serve to protect, maintain, or enhance fish and wildlife resources in Oregon that support permissible purposes outlined in [HB 2829 Section 1(2)(a-e)].~~**

While these are more minor changes, we strongly recommend that the Commission pause this rulemaking and direct staff to better review the grant funding process used by other agencies, particularly OWEB, and develop a more robust process for soliciting, reviewing and funding projects using state dollars. We are concerned that the lack of detail in the rulemaking will leave the process open to wide latitude by the Advisory Committee, and risks creation of a program that is not transparent or readily accountable to the legislature in terms of how funding is used, and which is arbitrary in how it prioritizes projects under the very broad mission allowed by HB 2829.

Thank you for the opportunity to comment, and please do not hesitate to contact us if you have any questions about our comments.

Respectfully,



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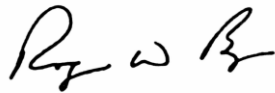
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