



April 2, 2021

MEMORANDUM

TO: Representative Pam Marsh, Chair
House Committee on Energy and Environment

C: Erin Pischke, Legislative Policy and Research Office

FROM: Bryn Hudson, Oregon Water Resources Department
Shannon Hurn, Oregon Department of Fish and Wildlife
Rian Hooff, Oregon Department of Environmental Quality

SUBJECT: Response to Questions from Public Hearing on HB 2143

During the March 31, 2021, House Committee on Energy and Environment public hearing on House Bill 2143, questions and issues were raised during the hearing that the Oregon Water Resources Department, the Oregon Department of Fish and Wildlife, and the Oregon Department of Environmental Quality would like to follow up on. Responses are provided below.

1. How much revenue would be generated by this fee increase and how much of that is attributed to Idaho Power? Is Idaho Power the only entity currently paying the lower fee of \$0.28 THP?

House Bill 2143 proposes to increase revenue by \$1,254,863 in the 2021-2023 biennium. Idaho Power (1,056,704 THP) currently pays \$295,878 per year. Under HB 2143, Idaho Power fees would be \$725,956; an increase of \$430,077. As such, Idaho Power's fees would account for \$860,154 of the \$1,285,920 revenue increase for the 2021-2023 biennium. The fee estimates are based on the \$0.687/THP base fee established in HB 2143 and do not account for inflationary increases, as we cannot predict the inflationary factor which is based on.

There are other entities that are still paying the \$0.28/THP; however, the majority of other large projects are already paying the higher fee of \$0.608/THP. For example, the entity with the greatest THP is Portland General Electric (1,332,065 THP), currently paying \$803,816 per year. Under HB 2143, their fees would be \$908,259 per year. Fee estimates are based on the \$0.687/THP base fee established in HB 2143 and do not account for inflationary increases.

2. Does the bill change the number of theoretical horsepower for a project that would be subject to the fees if the project is on a river that borders two states?

During the hearing, statements were made that the bill would change how the Department calculates the fees for projects that border other states. Specifically, the projects referenced

were Idaho Power's. The Department currently charges fees on half of Idaho Power's Oxbow, Hells Canyon, and Brownlee projects' THP, which is equal to 1,056,704 THP. Under HB 2143, the fees at \$0.687/THP would be \$725,956; this fee estimate is based on the \$0.687/THP base fee and does not account for inflationary increases.

It is not the agencies' intent to change the calculation methodology. Projects that pay half today would continue to pay half. We have reached out to Idaho Power since the hearing to understand why they think the bill changes the calculation methodology. We will work with Idaho Power to identify language to address their concern and ensure that it is clear that they will continue to pay fees on half of their projects' THP, equal to 1,056,704 THP.

3. What are the projected shortfalls that each agency is facing, and how do legal expenses impact those shortfalls?

Table 1 provides a summary of projected programmatic costs by agency, including projected legal expenses for the 2021-2023 biennium, as well as a breakdown of the projected shortfall and FTE. Table 2 provides a summary of the projected revenue and shortfalls for the 2021-2023 biennium. Note that WRD Policy Option Package 103 provides general fund dollars to address WRD's increased legal expenses across all WRD programs including hydro. If WRD receives POP 103, which would allow it to cover some of its hydroelectric legal expenses with general fund, WRD would not anticipate a shortfall at the beginning of the 2023 fiscal year and funds could be shifted if needed to reduce shortfalls for the other agencies.

Table 1. Projected 2021-2023 programmatic costs, shortfalls and program FTE

Projected Cost	WRD	ODFW	DEQ	Total
Personal Services and Services & Supplies	\$691,493	\$2,259,186	\$753,621	\$3,704,300
Department of Justice Projected Costs	\$155,491	\$160,000	\$326,741	\$642,232
Indirect Cost Rate	\$ -	\$ -	\$143,121	\$143,121
Ending Fund Balance*	\$225,000	\$962,243	\$254,892	\$1,442,135
Total Projected Costs	\$1,071,985	\$3,381,429	\$1,478,375	\$5,931,788
Projected Shortfall	-\$127,185**	-\$353,177	-\$921,266	-\$1,401,627
FTE	2.1	7	2.05	11.15
<i>*Ending fund balances are retained to cover cash flow needs and contingencies per the budget instructions.</i>				
<i>**WRD would not have a shortfall if WRD POP 103 is adopted.</i>				

Table 2. Projected 2021-2023 revenues and shortfalls

2021-2023 Projections	Total (all agencies)
Beginning Fund Balances*	\$1,249,576
Projected Costs	-\$5,931,788
Projected Revenues without HB 2143	\$3,280,586
Shortfall without HB 2143	-\$1,401,627
Additional Revenues from HB 2143	\$1,285,920**
*WRD beginning fund balance \$287,333 and ODFW beginning fund balance \$962,243. DEQ has no beginning fund balance.	
**Revenue projection is based on the \$0.687 base fee and has been adjusted for inflationary increases. The projected revenue increase presented to the Committee on March 31 (\$1,254,863) had not been adjusted for inflationary increases.	

4. What are the agencies legal expenses related to the Klamath dam removal?

Table 3 provides an overview of legal expenditures, by agency, on the Klamath dam removal process for the 2017-2019 and 2019-2021 biennia. Values include both litigation and non-litigation costs.

Table 3. Legal expenditures for Klamath dam removal in 2017-2019 and 2019-2021 biennia.

Agency	2017-2019 DOJ Costs	2019-2021 DOJ Costs Billed to Date
WRD	\$86,992*	\$104,605*
ODFW	\$80,468	\$132,175
DEQ	\$84,989	\$70,860**
Total Costs	\$252,449	\$236,780
*No more than \$27k (2017-2019 biennium) and \$26k (2019-2021 biennium) of Hydroelectric Program fees have paid for the WRD's total legal expenses related to the Hydroelectric Program; the remaining costs have been covered using general funds as part of WRD's Emergency Board requests.		
**Since July 2020, DEQ Klamath dam removal DOJ costs have been charged to another water quality sub-program area that is not supported by the Hydroelectric Program fees.		