

ANALYSIS

Department of Environmental Quality Toxics Reduction Lead

Analyst: April McDonald

Request: Approve the submission of a federal grant application to the U.S. Environmental Protection Agency, Columbia River Basin Restoration Funding Assistance Program, in the amount of \$7,000,000, for the reduction, prevention, and removal of toxic contaminants in the Columbia River Basin.

Analysis: In 2016, the U.S. Environmental Protection Agency (EPA) established the Columbia River Basin Restoration program to provide funding for toxic reduction, monitoring, and outreach activities. Bolstered by funding provided in the 2021 Infrastructure Investment and Jobs Act, the EPA anticipates awarding \$40 million in program funding through this grant opportunity; Toxics Reduction Lead (TRL). Applicants may submit one application for up to \$7 million dollars in federal funding to be spent over a 4-6 year timeline. The Department of Environmental Quality (DEQ) intends to apply for \$7 million in order to fund the following activities:

- \$1.0 million - Enhance the existing Pesticide Stewardship Partnership program
- \$1.5 million - Work to reduce mercury contributions from agricultural and non-permitted urban stormwater sources in the Willamette Basin
- \$2.0 million - Prioritize existing brownsfield sites in the Columbia River Basin for clean-up
- \$1.5 million - Complete and implement a multi-media Per- and Polyfluoroalkyl Substances (PFAS) Strategic Action Plan, aligning to the EPA's PFAS Strategic Roadmap.
- \$1.0 million - Cover the administrative costs to administer the grant program

The TRL funding opportunity includes a state match requirement of 25% of total project cost. The total cost of the above projects amounts to approximately \$9.3 million, resulting in a match equivalent to \$2.3 million. DEQ anticipates this requirement will be met through staff time, as well as matching funds provided by sub-recipients. DEQ is not requesting any additional funding or staff at this time. Should the application be successfully awarded, DEQ anticipates returning to the legislature to request expenditure limitation and one additional position to administer the grant, paid for by TRL grant funding.

The application deadline is March 13, 2023 and the EPA anticipates delivery of awards in September 2023. Due to the length and complexity of this grant, many of the proposed projects will continue through the period of performance, which extends into the 2027-2029 biennium.

Legislative Fiscal Office Recommendation: The Legislative Fiscal Office recommends approval of the request.

Department of Environmental Quality Filimoehala

Request: Authorization to apply for a grant of \$7,000,000 for Columbia River Basin Toxics Reductions from the federal Environmental Protection Agency.

Recommendation: Approve the request.

Discussion: The Department of Environmental Quality is requesting authorization to apply for \$7,000,000 from the Environmental Protection Agency for a Columbia River Basin Toxic Reduction Lead grant. If awarded, the grant funding would be used to establish one new position (1.00 FTE) to act as a Toxics Reduction Lead. Additionally, the grant will support work of the Pesticide Stewardship Program, Willamette Basin Mercury Total Maximum Daily Load implementation, Columbia River Basin clean-up prioritization, implementation of a Per-and Polyfluorinated Substances (PFAS) Strategic Action Plan, Columbia River Basin Restoration Program Working Group participation, and grant administration to subgrantees.

The grant requires a non-federal match of 25 percent that the department anticipates will be met through work in-kind contributions from department staff and partners. The grant application is due March 13, 2023. Award notifications are anticipated in April 2023, and grant funding is expected in August 2023. If awarded, the department will request additional Federal Funds expenditure limitation and authority to establish one new position (1.00 FTE).



Oregon

Tina Kotek, Governor

Department of Environmental Quality
Agency Headquarters
700 NE Multnomah Street, Suite 600
Portland, OR 97232
(503) 229-5696
FAX (503) 229-6124
TTY 711

Transmitted via email to: CFO.LegRequests@oregon.gov; LFO.LegRequests@state.or.us

Senator Elizabeth Steiner, Co-Chair
Representative Tawna Sanchez, Co-Chair
Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, Oregon 97301

Subject: DEQ approval request for Federal Toxics Reduction Lead grant funds

Dear Co-Chairpersons:

Nature of the Request

The Department of Environmental Quality (DEQ) is requesting approval to apply to the Environmental Protection Agency's (EPA) Columbia River Basin Restoration Funding Assistance Program – Toxics Reduction Lead (TRL) Grant (Funding Opportunity Number: EPA-I-R10-OW-CRBRP-2023_02).

The TRL grant is a competitive funding opportunity managed by EPA Region 10's Water Division to address toxic pollution throughout the entire U.S. portion of the Columbia River Basin. Applications for \$3 to \$7 million are due on March 13, 2023. If awarded funds by EPA, DEQ will be a lead applicant and develop and implement a multi-year, multi-phase program to reduce, prevent, and clean-up toxic contaminants in the Columbia River Basin within the State of Oregon. Due to the length and complexity of this grant, many of the proposed projects will require further development during the grant cycle, which extends into the 2027-2029 biennium. This letter describes the overall framework of the proposed projects.

Columbia River Basin Restoration Program and Toxics Reduction Lead Background

In 2016, Congress amended the Clean Water Act (CWA) to add Section 123 (33 U.S.C. § 1275), which required EPA to establish a Columbia River Basin Restoration Program. CWA Section 123 authorizes EPA to establish a representative working group composed of states, tribal governments, industry, non-governmental organizations and other entities and directs EPA to develop a voluntary, competitive grants program that provides a framework for funding toxic reduction, monitoring, and outreach activities. Fiscal year 2019 was the inaugural year of funding for this program.

In 2021, the Infrastructure and Investment and Jobs Act (also known as the "Bipartisan Infrastructure Law") provided the Columbia River Basin Restoration Program with additional funding. EPA anticipates awarding up to a total of \$40 million dollars through multiple cooperative agreements with eligible applicants that may include state governments, tribal governments, regional water pollution control agencies and entities, local government entities, nongovernmental entities, or soil and water conservation districts. Lead applicants can only submit one application for \$3 to \$7 million dollars in federal funding to be spent over a 4-6 year timeline. EPA expects awards to begin around September 2023 and plans to

incrementally fund applications in phases of proposed activities with an expected completion date of 6 years after award.

The primary role of a lead applicant is to:

1. Develop, implement, and manage a multi-phase or large-scale program or programs which leverage partnerships and include a comprehensive toxics reduction plan;
2. Lead program and policy development and provide technical assistance;
3. Award and manage subawards;
4. Participate in the Columbia River Basin Restoration Program Working Group and provide periodic program updates at the bi-annual meetings. DEQ is already an active participant in the Working Group.

Eligible projects must address one of the following categories: eliminating or reducing pollution, cleaning up contaminated sites, improving water quality, reducing runoff, protecting habitat, or promoting citizen engagement or knowledge.

EPA will prioritize funding to applications consistent with the established fiscal year 2023 funding priorities, which are: agricultural best practices, stormwater green infrastructure, pollution prevention, clean-up of small non-Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; commonly known as “Superfund”) sites, and community education and engagement. EPA’s evaluation scores will depend on the quality with which the priorities are addressed, not the number of priorities. In addition, EPA will give funding priority to proposals that address Environmental Justice, benefit underserved communities, build off successful efforts in the Basin to address toxics and those that leverage or expand on existing partnerships.

DEQ Grant Application Proposal

DEQ intends to apply to EPA for \$7 million in federal funding to fund the following activities:

- Amplify the voluntary Pesticide Stewardship Partnership (PSP) Program to identify potential concerns and improve water quality affected by pesticide use;
- Support implementation of the Willamette Basin Mercury TMDL to achieve non-point source load allocations from both agricultural and unpermitted urban stormwater sources;
- Screen and prioritize contaminated sites and conduct small clean-ups;
- Complete and implement a multi-media Per-and Polyfluorinated Substances (PFAS) Strategic Action Plan.

DEQ will use \$1.0 million (14.3% of total) to amplify the [PSP Program](#). Co-managed by DEQ and the Oregon Department of Agriculture (ODA), the PSP Program relies on local partnerships to monitor pesticide levels in waterways and enact solutions to protect water quality. Established in the early 2000s as an alternative to regulatory approaches, the PSP Program has successfully reduced pesticide related water quality concerns through targeted education and outreach and pesticide collection events. DEQ and ODA plan to sub-award most of the grant funds to existing PSP Lead Partners (soil and water conservation districts, watershed councils, and/or Oregon State University), and to increase funding of locally led outreach, stewardship, and technical assistance programs designed to educate pesticide users on how to keep pesticides on site and out of the aquatic environment. A portion of the federal money may be used to increase the number of waste pesticide collection events held across the state to collect and safely dispose of unwanted or waste pesticide materials – since 2006, over 719,000 pounds of pesticides have been collected and disposed of by the PSP Program.

DEQ will use grant funding for two projects to implement the load allocations specified in EPA’s 2019 *Willamette Basin Mercury Total Maximum Daily Load*, focused on reducing mercury contributions from

agricultural and non-permitted urban stormwater sources. The first request is for \$750,000 (10.7% of total) to fund an effort co-managed in partnership with ODA, that will support the adoption of agricultural management practices that reduce mercury loading from agricultural runoff and erosion through enhanced Strategic Implementation Area (SIA) Programs. DEQ and ODA plan to leverage partnerships with other state agencies and local partners to plan, implement, and monitor the effectiveness of on-the-ground projects. Work will occur in six existing SIA subbasins in the Willamette Valley and in three additional subbasins, to be prioritized based on the magnitude of required TMDL reductions, expressed interest in collaboration, and the capabilities of local partners. The second request is for \$750,000 (10.7% of total) to provide technical assistance to small-scale designated management agencies (DMAs) in the Willamette Basin to reduce mercury loading from non-permitted urban stormwater. Under this project, DEQ will first conduct an environmental justice screen to prioritize small-scale DMAs and then implement a program to support the development of local ordinances, staff training for implementing stormwater best management practices, and/or education and outreach programs. Work will be conducted by graduate-level interns placed through the Resource Assistance for Rural Environmental (RARE) Program managed by the University of Oregon.

DEQ will use \$2.0 million (28.6% of total) to screen and prioritize DEQ's existing list of brownfields sites and conduct targeted clean-up of contaminated sites in the Columbia River Basin. This would include hiring an additional project manager to develop and implement a prioritization and screening tool and work with DEQ's contractors to conduct clean-ups. Eligible sites are long wait-listed sites that are beyond the capacity of DEQ's Brownfields Program. DEQ will prioritize sites that benefit environmental justice and underserved communities and those that improve water quality and protect habitat within the Basin.

DEQ will use \$1.5 million (21.4% of total) to complete and implement a multi-media Per-and Polyfluorinated Substances (PFAS) Strategic Action Plan. DEQ is currently evaluating the specific actions set out by EPA in its PFAS Strategic Roadmap and evaluating actions DEQ will need to take to be responsive and to address PFAS contamination from entering and spreading through Oregon. DEQ is in the process of capturing these anticipated actions in a PFAS Strategic Action Plan, which will include continuing to work collaboratively with Oregon Health Authority, Oregon State Fire Marshall, other agencies, interested parties and communities. DEQ's Plan is currently under development and most of the funding will be used to implement portions of the Plan that best meet the priorities of the TRL grant.

DEQ will use approximately \$1.0 million (14.3% of total) of the requested grant amount for administrative costs to oversee and administer this grant, including reporting to EPA and participation in the Columbia River Basin Restoration Program Working Group.

The TRL grant requires a non-federal match of 25% (\$2.3 million), which may come from a variety of sources including but not limited to: public sources such as state appropriations or local government match to the TRL grant projects; private sources, such as funding from a local business or nonprofit partner contributing to TRL projects; in-kind services, such as the state's or local partner's staff time for managing and implementing the TRL grant and projects; or non-federal Clean Water State Revolving Fund program funds that have revolved at the state level. DEQ anticipates match funding to be provided largely through staff time working on these projects, and the match from partners who are recipients of sub-awards. DEQ is not requesting any new General Fund appropriation to support this match – existing funding sources will be used to pay for staff time.

Action Requested

DEQ requests approval from the Joint Ways and Means Committee to submit the grant application to EPA for TRL grant funds. DEQ will develop a TRL workplan that will include further scoping and development of specific projects to be accomplished throughout this multi-year, multi-phase program to

reduce, prevent, and clean-up toxic contaminants in the Columbia River Basin within the State of Oregon.

Should its application be successfully awarded, DEQ anticipates it will need additional FTE to manage the grant funds and track and report outcomes to EPA. DEQ has requested resources broadly across several programs outlined in the Governor's Recommended Budget (DEQ POP 129). Those resources, if authorized, will contribute to the projects in the TRL grant but DEQ will still need 1.0 FTE to administer the grant. TRL grant funding will pay for this position.

DEQ is excited for this opportunity to provide dedicated resources for projects that seek to protect and improve water quality, clean up contaminated non-CERCLA sites, and to prevent toxic contaminants from entering the environment. Thank you for your review of this request letter. Please do not hesitate to reach out with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Davis', is positioned above the typed name.

Matthew Davis
Interim Policy and External Affairs Manager
Oregon Department of Environmental Quality

CC

April McDonald, Legislative Fiscal Office
Sione Filimoehala, Chief Financial Office
Bring Boling, Oregon DEQ
Abby Boudouris, Oregon DEQ
Rian Hooff, Oregon DEQ