

ANALYSIS

Department of Fish and Wildlife McKay Creek Dam

Analyst: Wendy Gibson

Request: Approve, retroactively, the submission of a federal grant application to the U.S. Bureau of Reclamation in the amount of \$4,000,000 to restore fish passage at McKay Creek Dam Reservoir.

Analysis: The U.S. Bureau of Reclamation (BOR)'s Aquatic Ecosystem Restoration Projects (AERP) grant program provides funding to study, design, and construct aquatic ecosystem restoration projects to improve the health of wildlife, fisheries, and aquatic habitats through improved fish passage. The grant program offers competitive grants of up to \$20 million for qualifying projects.

The Oregon Department of Fish and Wildlife (ODFW) requests retroactive authorization to apply for a \$4 million grant to restore upstream and downstream fish passage at McKay Creek Dam Reservoir. The grant would fund the analysis of alternatives, engineering design, and passage construction. The dam is currently the number one fish passage barrier in the Mid-Columbia Recovery Plan for Steelhead and ranks 11th highest in ODFW's overall fish passage priorities. Removing the barriers will provide stream connectedness and thermal refuge for steelhead, bull trout, lamprey, and Chinook salmon.

The grant requires a 35% cost share, which ODFW intends to meet through Lottery Bonds issued in spring 2025 for non-hatchery related capital improvements combined with funding from partners, including the Confederated Tribes of the Umatilla and the Watershed Enhancement Board.

The Department received authorization in the November 2023 meeting of the Joint Interim Committee on Ways and Means to apply for a \$400,000 grant from BOR's WaterSmart Drought Resiliency program for the planning and technical design stage of the project and a \$4 million grant from the National Oceanic and Atmospheric Administration for the construction phase of the project. In January 2024, BOR advised the Department the grant application is better suited for BOR's AERP grant program.

The grant application deadline was January 24, 2024. ODFW provided a 10-day notification of the Department's intent to apply for the BOR AERP grant on January 19, 2024. According to ODFW, the last-minute change in grant program applications did not allow the Department to meet the 10-day notice requirement. If awarded, ODFW will return to the Legislature to seek additional Federal Funds expenditure limitation for the funding, which would become available in August 2024. The grant has a three-year period of performance for engineering design projects and a five-year period of performance for construction projects.

Recommendation: The Legislative Fiscal Office recommends that the Joint Committee on Ways and Means approve the request.

Department of Fish and Wildlife Filimoehala

Request: Retroactive authorization to apply for a grant of \$4,000,000 from the Bureau of Reclamation WaterSmart FY 24 Aquatic Ecosystem Restoration grant program for a McKay Creek Fish Passage project.

Recommendation: Approve the request.

Discussion: The Department of Fish and Wildlife (ODFW) is requesting retroactive authorization to apply for a grant from the Bureau of Reclamation (BOR) for a fish passage project at McKay Creek. The WaterSmart FY24 Aquatic Ecosystems Restoration grant program provides grants to states, tribes, and local entities to increase their water supply. The Aquatic Ecosystems Restoration grant within WaterSmart looks to fund the study, design, and construct aquatic ecosystem restoration projects, which result in the improvement of the health of fisheries, wildlife, and aquatic habitat.

ODFW submitted notice of intent to apply for the grant on January 19, 2024, and applied for the grant on January 24, 2024. Following guidance from BOR partners the decision was made to submit the project under the Aquatic Ecosystems Restorations program rather than a different grant program ODFW was considering. The change in which grant program limited the timeline and availability for ODFW to submit the notice of intent within the regular 10-day period.

ODFW plans to utilize grant funds to reconnect the McKay Creek to 26 miles of upstream habitat for summer steelhead, bull trout, spring chinook, and lamprey. ODFW anticipates notice of funding awards in January 2025, and will have five years to complete the work. The grant requires a 35 percent match of \$1.4 million, which will be provided through a combination of partner funding and existing Lottery Bond funding within the ODFW budget. If awarded, the agency will return to the appropriate committee to request Federal Funds expenditure limitation.



Oregon

Tina Kotek, Governor

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January 19, 2024

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



Dear Co-Chairs:

Nature of the Request

Oregon Department of Fish and Wildlife (ODFW) requests retroactive approval to submit a federal grant application for \$4,000,000 to Bureau of Reclamation (BOR) WaterSmart FY 24 Aquatic Ecosystem Restoration grant program, which is part of the Bipartisan Infrastructure Law-Infrastructure Investment and Jobs Act.

At the November 2023 Interim Joint Ways and Means, ODFW requested and received approval to apply for \$400,000 from BOR through the WaterSmart Drought Resiliency program for the design phase of this project. However, in an email dated January 11, 2024, BOR requested that ODFW instead apply for this project funding under the Aquatic Ecosystem Restoration grant program. This new request is for the full design phase and construction of the selected fish passage solution.

Background

BOR's Aquatic Ecosystems Restoration (AERP) grant program provides federal funding for the construction of aquatic ecosystem restoration projects that are collaboratively developed, have widespread regional benefits, and are for the purpose of improving of the health of fisheries, wildlife, and aquatic habitat through restoration and improved fish passage. Projects that affect water resources management in two or more river basins, provide regional benefits not limited to fisheries restoration, and that are a component of a larger strategy to replace aging facilities are prioritized under this program.

McKay Creek Fish Passage Project

ODFW is requesting \$4,000,000 federal funds for engineering design, alternatives analysis, and implementation of fish passage, both upstream and downstream, at McKay Creek Dam Reservoir. The project will be implemented by ODFW, with \$1,400,000 match funding required, to be met through partner funding from Confederated Tribes of the Umatilla, Oregon Watershed Enhancement Board, and ODFW funding from Lottery Bonds to be issued in spring 2025.

In 1927, BOR constructed a dam on McKay Creek, a tributary of the Umatilla River, at creek mile 6 for irrigation purposes which disconnected fish passage from 26 miles of upstream habitat. McKay Creek represents approximately 25 percent of the overall-ESA listed summer steelhead habitat in the Umatilla basin, as well as historic ESA-listed bull trout, spring Chinook, and lamprey habitat. McKay Creek Reservoir Dam is listed as the number one fish passage barrier in the Recovery Plan for Mid – Columbia River Steelhead and number one barrier for the Bull Trout Distinct Population Segment in the Umatilla/Walla Walla River Major Population Group and 11th highest fish passage priority on ODFW's statewide fish passage priority list. This project supports ODFW's mission and goals by working to reconnect fish passage for native migratory and resident species. The McKay Creek project will improve fish passage in the McKay Creek drainage and throughout the Umatilla Basin reconnecting previously fragmented habitat, resulting in access to additional areas for spawning and rearing. Completing this fish passage project will contribute to the recovery and reintroduction of native migratory fish species, including steelhead, bull trout, lamprey, and Chinook salmon. This project will benefit long term conservation and recovery of Oregon's native fish, which in turn will provide cultural, ecological, recreational, and economic benefits to Oregonians.

Agency Action

ODFW would submit its grant applications to BOR by January 24, 2024, to meet the federal due date. ODFW anticipates notification of funding awards by January 4, 2025. Construction projects will have 5 years to complete the implementation of project deliverables and design projects will have three years to complete the study prior to December 31, 2027. If funding is awarded, ODFW anticipates making a future request of additional federal funds expenditure limitation; however, no additional FTE are needed.

Action Requested

ODFW requests retroactive approval to submit a federal grant application for \$4,000,000 to Bureau of Reclamation (BOR) WaterSmart FY 24 Aquatic Ecosystem Restoration grant program.

Legislation Affected

No legislation is affected with this request.

Sincerely,



Curtis Melcher
Director