

# Water Acquisition Grant Program 101

## Part 2

June 2024



OREGON  
**WATERSHED**  
ENHANCEMENT BOARD



# Water Acquisition Grants



**Purpose:** To increase instream flow for habitat, species, and water quality benefits through the transfer of water rights to instream uses.



Peter Kauss, BLM

## Transaction mechanisms:

- Instream Leases
- Instream transfers
- Other Water Use Agreements  
e.g. minimum flow agreements,  
forbearance agreements
- Allocation of Conserved Water



# Eligible Projects



**Voluntary water projects** that protect instream flows in rivers and creeks for native fish and wildlife.

Projects must protect instream flows to address:

- Fish and wildlife habitat
- Water quality in areas with water quality concerns



# Oregon Instream Water Rights Act



- Passed in 1987
- Allows the purchase, lease, or donation of existing rights
- Maintains the original water right priority dates
- Injury review to protect 3<sup>rd</sup> parties (e.g., adjacent landowners)
- Instream use is now a beneficial use, equal to any other water right

# Short-term Temporary Transfer (Instream Lease)



- Most common flow restoration transaction tool.
- **5 years or less**, can be renewed without limitation.
- 30-45 days review process, **Less rigorous review** of injury and enlargement (lease can be ended if either is found).
- Split-Season Instream Leases are an option (increased coordination with local Watermaster for measuring/monitoring).



Ian Sane

## Outcome

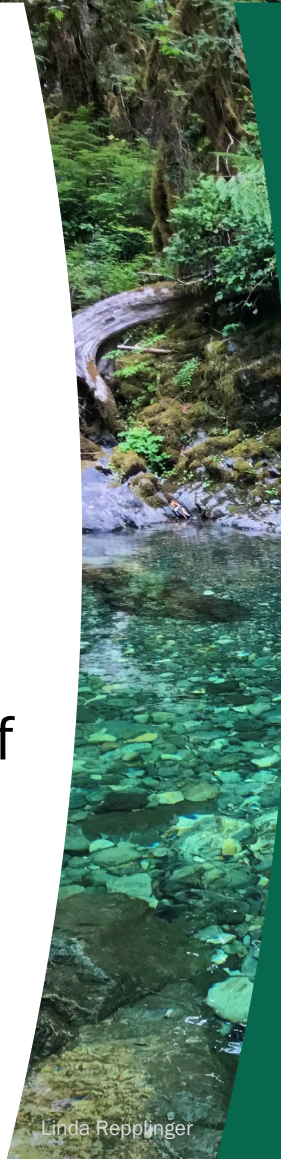
- Enables water right holder to test how instream use can work for them/their operation.
- Improves streamflow on a temporary basis but can be renewed without limitation.
- Protects the water right instream and protects the water right from forfeiture.
- Less costly initially, but over time can be more expensive.
- Dries up land during the lease period.



# Time Limited Instream Transfer



- Can be any length of time, for example 10,20, 50 or more years.
- **Customizable**; for example, instream transfer in effect until a change in land ownership.
- Requires a **more rigorous review** of the water right and potential for injury or enlargement.



Linda Reppinger

## Outcome

- Enables water right holder to test how instream use can work for them/their operation.
- Improves streamflow on a temporary basis, but not permanent.
- Protects the water right instream and protects the right from forfeiture.



# Permanent Instream Transfer



- Permanent transfer of **out of stream water right to instream water right.**
- Requires a **more rigorous review** of the water right and potential for injury or enlargement.



Linda Repplinger

## Outcome

- Provides permanent streamflow restoration.
- Out of stream water right is cancelled.
- Instream water right issued, held in trust by Water Resources Department.

# Water Use Agreement



- Arrangement between water users and/or water buyers.
- Examples can include forbearance agreement, diversion reduction agreement, and minimum flow agreement, among others.

## Outcome


- Enables water right holder to test how instream use can work for them/their operation.
- No formal change to water rights.
- Instream water is not protectable by WRD.





# Allocation of Conserved Water



- 
- A photograph of a center pivot irrigation system in a field. The metal structure of the system is visible, supported by a large black tire in the foreground. The background shows a green field under a clear sky.
- Irrigation efficiency, water conveyance improvements / modernization (e.g., piping).
  - Helps remove disincentive to conserve water (use it or lose it).

## Outcome

- The state and the conserved water applicant split the water savings.
- New instream water right is protectable by WRD ( $\geq 25\%$  saved water).
- More goes instream depending on the public funding.
- Out of stream water right is reduced.
- Can maintain priority of instream water or make it one minute junior.

# Application Review Process



## APPLICATION



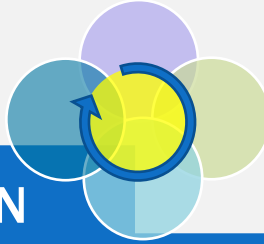
- Informs the review relative to state/federal/tribal agency assessments & plans. (Example: ODFW essential habitat, ESA Recovery Plans, TMDL)
- Describes water right characteristics
- Describes watershed context
- Describes ecological outcomes of the proposed project

## ELIGIBILITY



- OWEB staff check eligibility.
- Initial water right review.
- Addresses 1) fish and wildlife habitat needs or 2) addresses water quality.
- Written notice to irrigation district if project within an irrigation district.

## REVIEW TEAM EVALUATION



- Review team evaluates the application based on criteria.
- Review team is comprised of expertise from State, Federal, and Tribal agencies.
- Some team members are local to project area, others have a regional or statewide focus.
- After evaluating the applications, the review team makes a recommendation to the Board.

# Evaluation Criteria

OAR 695-046-0196

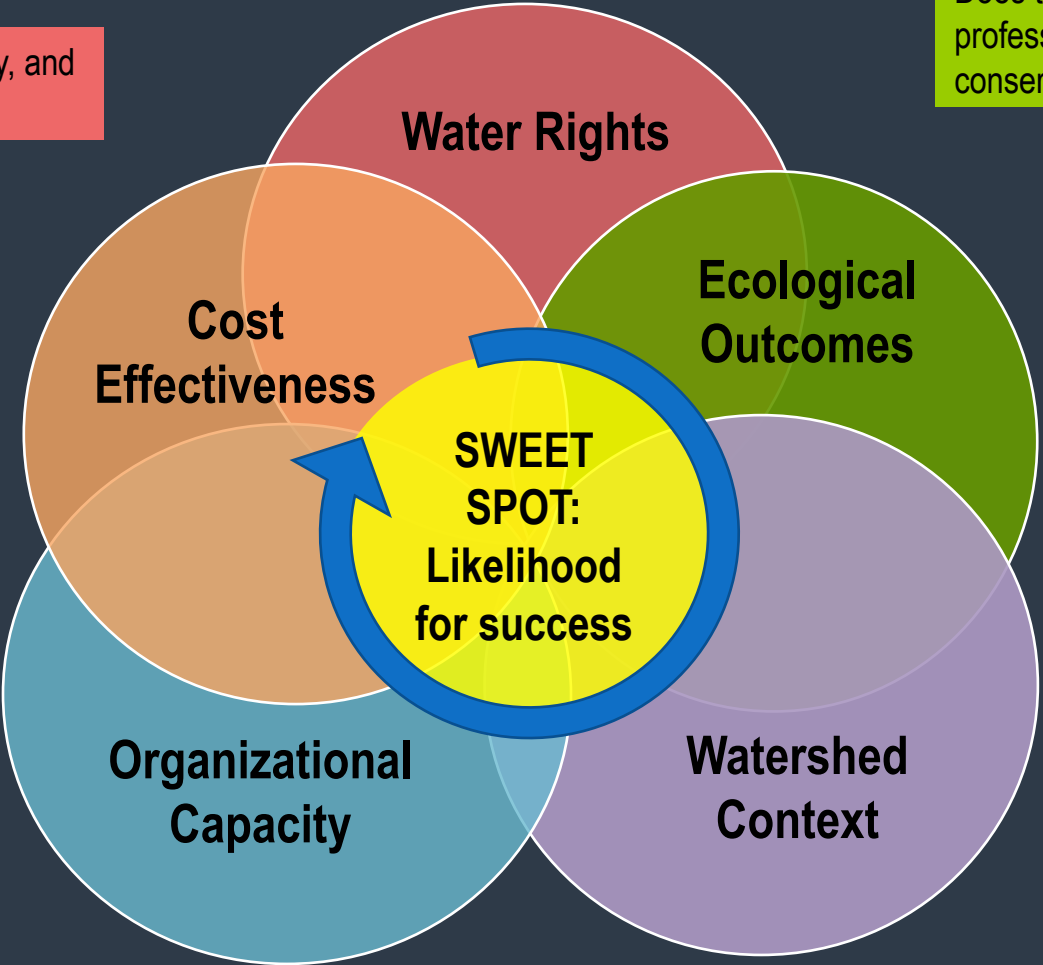
Is there evidence of the ownership, use, validity, and reliability of the water right?

Is the proposed cost of the protected instream flow consistent with local or regional market conditions?

Are the costs of the proposed work necessary to accomplish the objectives of the application?

Is the term of the water acquisition project appropriate to meet the habitat, species, or water quality needs?

Does the applicant have the capacity and qualifications, including staff or consultants to be retained, to accomplish the proposed water acquisition project activities described in the application and to sustain the projected ecological outcomes over the project term?



Does the project achieve or help to achieve any professionally accepted flow target during the period of use?

Does the project address limiting factors identified in professionally accepted conservation plans for habitat conservation needs or water quality?

Does the project provide benefits to impacted species and life stages?

Does the project monitor and track project impacts over time, as appropriate for the transaction type and duration?

Do the proposed activities include monitoring project compliance, as appropriate for the transaction type and duration?

*Does the project contribute to climate change adaptation?*

Does the project complement other habitat conservation actions and needs?

Does the project lead to future expansion of instream flow restoration?

Do the proposed activities help implement or address ODFW or other federal or tribal fish and wildlife agency priorities for aquatic habitat?

Do the proposed activities help implement or address ODEQ water quality management or implementation plans?

# Brian Wolcott

OWEB Water Acquisition and Capacity Grant Program Coordinator

Ph: 971-345-7010

[Brian.r.wolcott@oweb.oregon.gov](mailto:Brian.r.wolcott@oweb.oregon.gov)

