

Oregon Water Resources Department Rules Advisory Committee: *Best Practices in Community Engagement around Water Projects (ORS 541.551)*

The Oregon Water Resources Department (OWRD), the Oregon Health Authority (OHA), Oregon Business Development Department (OBDD), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Environmental Quality (DEQ), and Oregon Watershed Enhancement Board (OWEB) have been working collaboratively with community members across Oregon to identify Best Practices in engaging communities when supporting water projects.

This work emphasizes the importance of engaging a wide range of communities, especially those disproportionately impacted or underrepresented, in decisions related to the identification, scoping, design, and implementation of water projects.

A draft document of the Best Practices was released for public comment from June 28, 2024, through 5 p.m. on August 1, 2024. Agencies received 64 distinct comments from 12 community members.

Comments were reviewed by the interagency team consisting of the OWRD, OHA, OBDD, ODFW, DEQ, and OWEB. The agencies will work together to ensure feedback is incorporated, as appropriate, into the final document to provide the most meaningful set of best practices for community engagement around water projects.

The bullets below represent a summary of key themes of the primary concerns and suggestions for improving community engagement in water projects.

1. Implementation and Coordination by State Agencies:

- Establish a timeline for implementing community engagement practices and metrics for compliance within each agency's Oregon Administrative Rules.
- Ensure coordination among state agencies to effectively implement and monitor best practices.
- Develop a list of water projects and community engagement plans to guide outreach and funding priorities to use as examples for applicants to funding opportunities.

2. Accountability and Transparency:

- Implement measures to track and report on community engagement activities and impacts.
- Address potential conflicts, biases, and transparency issues in community engagement processes to ensure community engagement plans clearly identify decision pathways for communities.
- Develop clear guidelines for community engagement, including criteria for engagement, neutrality requirements, and adaptive management practices.

3. Funding and Oversight:

- Set standards for local organizations receiving funding, including qualifications in conflict resolution and requirements for professional neutrality.
- Address the availability and transparency of funding sources for community engagement.
- Specify oversight mechanisms to ensure that funds are used effectively, and that community input is genuinely considered.
- Support accessibility by funding additional needs such as childcare, translation services, and participant honoraria.

Please contact Charlotte Whitfield (OWRD) with meeting related questions of concerns at charlotte.m.regula-whitefield@water.oregon.gov, | Phone 971-375-3481

Name	Organization (if any listed)	Date	Public Comments Addressed in Process	Action in Response <i>(actions were addressed through changes to the 10 Best Practices document, to the draft OARs, or in the creation of new guidance documents)</i>
Christopher Hall	Water League	1-Aug	Paraphrase: Update "Why Conduct Community Engagement?" to include word halted. There are general concerns that projects may not fully listen to communities and could use funding to continue a project through completion instead of stopping.	10 best practice document - Added the word "halted" to this section and include a short sentence along these concerns.
Christopher Hall	Water League	1-Aug	See page 10 for list of general word changes and typos	10 best practice document - Most of these edits were made in their entirety as they do not change meaning or intent and add to clarity of the document.
Chris Gannon	none	1-Jul	Concern over BP #5 including compensation for community members - safeguards and oversights in place?	10 best practice document - Added a new brief section how BP and guidance for implementation will be incorporated in each agencies OAR.
Michael Karnosh	Confederated Tribes of Grand Ronde	29-Jul	The Tribe appreciates the distinct call out on p. 5 of the special relationship between the State and federally-recognized tribes; this is an important distinction within the context of this community engagement document. That said, we would appreciate additional specificity that while OWRD does interact and engage with individual tribal members as part of their broader communities, Tribal Nations as sovereigns have a unique status that is different from interested community members. Sovereign nations engage with OWRD (and the State of Oregon) through government-to-government consultation, and the document should add clarifying language reflecting this.	10 best practice document - Added in language about government to government interactions with state and local governments, and that both individual tribe members and tribal governments as a whole should be engaged with in water project planning.
Michael Karnosh	Confederated Tribes of Grand Ronde	29-Jul	Regarding the callout to "invite tribal communities in Oregon to participate...acknowledging their preferences and capacity for collaboration" on p. 10, we would ask that the same clarifying language mentioned above be added. Tribal Nations as sovereigns participate as government partners, rather than as interested community members. We would also advocate that any direct OWRD engagement with the Tribe around water projects come first in time, before outreach via non-governmental organizations, as a courtesy to a fellow sovereign.	10 best practice document - Added in language about government to government interactions with state and local governments, and that both individual tribe members and tribal governments as a whole should be engaged with in water project planning.
Kimberley Priesley	Water Watch	30-Jul	Specific text edits on pages 3, 4, 5 and 9.	10 best practice document - Most of these edits were made in their entirety as they do not change meaning or intent and add to clarity of the document.

Kimberley Priesley	Water Watch	30-Jul	It is unclear how this community engagement process interplays with Place Based Planning. Without some sort of explanation, results from this work could potentially upend consensus decisions by communities in place based planning	10 best practice document - On page 3 (Introduction) added in a sentence stating how this process is different than place based planning.
Kimberley Priesley	Water Watch	30-Jul	The document does not clearly articulate that there will be state agency oversight by the agency providing the funding for these efforts. Moreover, to the extent funding recipients must abide by Best Practices as articulated in statute, the Best Practices themselves should be reworked to include accountability measures. As the Best Practices currently read, it appears that decisions are left largely to those applying for and receiving the grants for community engagement efforts (setting the table, establishing goals, balance, etc.); this could lead to the use of this tool by project proponents (and/or their consultants) to shape input/outcomes to their advantage. We do not believe this is consistent with the intent of the statute.	10 best practice document - On page 3 added in sentence clearly stating that this document will accompany OAR for each department implementation.
Christopher Hall	Water League	1-Aug	funding resource availability – there's no mention of any funding appropriations for provider grants to local organizations, so it's unclear if funds have been already appropriated or how much will be appropriated in the future, continuously, or otherwise. Securing sustainability among the communities and funding sources is a priority for the law and administrative rules to be effective.	New Resource Document - Creating a new document that has funding sources each agency plans to use these BP for at this time.
Christopher Hall	Water League	1-Aug	Is there a need to determine the scale of disproportion in access to the public process of community engagement and prioritize funding that way? Do communities define their level of disproportionately impacted status or does the state agency provider?	New Resource Document - Creating a new document on EJC Mapping tool - the EJC tool is a long way out, likely not until June 2026 or June 2027. Mention can be made to the tool in the document, but further guidance should be in each agency's OARs for grant specific.
Dana Kurtz	AP Anderson Perry	1-Jul	Appendix with resources. For example –people may not know where to find the list of appropriate tribes to contact. You could like the LCIS email address to get assistance etc.	New Resource Document - Creating a new document listing key government resources such as EJC council, Racial justice council, and the Legislative Commission on Indian Services.
Dana Kurtz	AP Anderson Perry	1-Jul	Appendix with funding sources – lots of grants for community engagement are available, but people may not know they are available.	New Resource Document - Creating a new document listing which funding sources each agency plans to use these BP for at this time.
Chris Gannon	none	1-Jul	How far should a water project developer/advocate/funding partner go to bring in disproportionately impacted communities? How do you identify them in your area? Are there criteria? I	New Resource Document - Creating a new document that has EJC Mapping tool is a long way out, likely not until June 2026 or June 2027.

Kimberley Priesley	Water Watch	30-Jul	There is no requirement that the views of the community that emerge from these engagement efforts be considered or reflected in the project for which community engagement funds were sought. For example, if a proponent of a new stream spanning dam receives funding under this program for community engagement and the community engagement results in a recommendation that the dam be tabled and conservation be employed first, the project proponent doesn't actually have to consider the community input.	OWRD OAR - Added in a reporting requirement that summaries what was heard within the community engagement process, and how this will be used in supplement grant applications. Also added in a requirement that supplement requests for funding through these grants need to include this summary as documentation and reflect changes based on its outreach.
Christopher Hall	Water League	1-Aug	Will organizations that have paid lobbyists on staff be eligible for support as a local 6 organization? If so, would the state-sponsored support of lobbyists cross any lines, legal, ethical, or otherwise?	OWRD OAR - Added that the use of paid lobbyists in community engagement plans will be prohibited.
Christopher Hall	Water League	1-Aug	Will there be requirements of "adaptive management" that local organizations must practice as a condition of the funding? If so, what would that look like? If not, is there a built-in assumption that all community engagement efforts do not need to reflect on progress and course-correct – for any reason?	OWRD OAR - Added to OAR through the reporting process and need to report mid engagement plan.
Christopher Hall	Water League	1-Aug	Will the state agency providers monitor the activities and "10 Best Practices" to ensure compliance with ORS 541.551(2)(c)? If so, how will the monitoring take place?	OWRD OAR - As noted in ORS .
Christopher Hall	Water League	1-Aug	Concerns over use of funds for media campaign or other advertising. Will the state providers, defined under section 1(f), fund local organizations that clearly state they support the proposed (or funded) water project in their community and seek to press for project completion?	OWRD OAR - Clearly stated that funds can not be used for lobbying, media or messaging campaigns, or other tools, actions, methods which will change public opinion on a water project.
Christopher Hall	Water League	1-Aug	Will provider-supported local organizations be required to track the evolution of impacts communities experience at the beginning, middle, and end of the community engagement processes? Would such impact-tracking be part of an adaptive management regime?	OWRD OAR - Included as part of the reporting requirements.
Christopher Hall	Water League	1-Aug	The who, what, where, when, why, and how section of the DRAFT is an excellent, if brief, discussion on the most important facets of community engagement. The administrative rules should incorporate this information in a manner that captures the intent while properly fitting within the formal rules language and format.	OWRD OAR - Key ideas from these sections were included throughout the OAR.
Christopher Hall	Water League	1-Aug	There is no mention of the possible conflict arising from organizations that act independently of the state-sponsored local organizations – would the local organizations be required to engage with these unaffiliated groups or address potential conflicts? What if the disproportionately impacted community members feel like they have been alienated, or they disfavor the local organization to which they have been assigned by the state agency providers that selected which local organizations get funded.	OWRD OAR - This information maybe addressed in the application materials for the grants and mentioned briefly in the funding section of the draft OAR.

Name	Organization (if any listed)	Date	Public Comments Not Addressed in Process
Barbara Cannady	none	1-Aug	The biggest failure of all agencies, but specifically OWRD and related meetings, is not speaking to the community before inter agencies are involved.
Barbara Cannady	none	1-Aug	Trying to add community members into that mix is depressing for the non-paid input responders.
Barbara Cannady	none	1-Aug	And to have all the agendas in place before their is a comprehension of what the plan is is discouraging, rated a waste of time
Barbara Cannady	none	1-Aug	The most efficient way to contact community members is direct post card mailings to permit water holders. Has been done. Works!
Chris Gannon	none	1-Jul	List of types of water projects included in definition
Chris Gannon	none	1-Jul	Costs associated with community engagement plans
Chris Gannon	none	1-Jul	Definition of community engagement plan – OWEB already has grant programs supporting these water related activities and actions that support water project planning and community engagement, so what's differ and why the duplication if it
Christopher Hall	Water League	1-Aug	We imagine there will be statewide community engagement standards that localities shall adopt as their own. The administrative rules should guide this adoption. (Reference text page one of letter)
Christopher Hall	Water League	1-Aug	strongly suggest, is to seek the support of Oregon's Kitchen Table in the rulemaking process because they excel at community engagement and can assist OWRD staff in writing the rules to ensure they serve the public interest and don't become corrupted.
Christopher Hall	Water League	1-Aug	Will providers require videos of all public meetings in the event providers request a review of activities? Will videos of public meetings be hosted by providers on YouTube
Christopher Hall	Water League	1-Aug	Will the administrative rules require local organizations that accept financial or other support from providers to sign an affidavit that they neither support nor oppose the water projects and that they will maintain clear neutrality at all times during the contract period? Will bias in favor of or opposition to the water project by the local organization be cause for breach of contract and possible fines and violations of the law?
Christopher Hall	Water League	1-Aug	will local organizations be exposed to liability or tort claims by opponents of water projects if those local organizations lead community engagement activities that increase support for the water projects regardless of the intent or bias among the

Christopher Hall	Water League	1-Aug	Will volunteers be permitted to lead community engagement activities that are funded by providers (e.g.: will they be allowed to lead entire events or participate as assistants leading break-out groups)? To what degree do professionalism and liability interact and intersect in this context?
Christopher Hall	Water League	1-Aug	Are there controls over whether community engagement becomes propaganda events? What happens if volunteers are moles for proponents and opponents (e.g.: lobbyists) and they misrepresent who they are and their true intentions? To what extent may some practice subterfuge to corrupt the community engagement process as 'harmless volunteers'? Would it rise to the level of a crime if they were local organization staff paid by the state agency providers?
Christopher Hall	Water League	1-Aug	Will local organizations be exposed to liability or tort claims by proponents of water projects if provider-supported local organizations lead community engagement activities that increase opposition to the water projects regardless of the intent or bias among the staff at the local organizations? Will professional qualifications in conflict and dispute resolution minimize this liability risk
Christopher Hall	Water League	1-Aug	What are grounds for a local organization to breach the support contract they would necessarily have with the state agency providers?
Christopher Hall	Water League	1-Aug	Will the administrative rules exclude certain water projects from the definition of "water project" on the basis that the state does not want community engagement involvement in certain water projects?
Christopher Hall	Water League	1-Aug	To what degree is professional neutrality required of provider-supported local organizations when working with the public?
Christopher Hall	Water League	1-Aug	Are there some water development projects the state believes the public is incompetent to understand and must not encourage community engagement through state agency provider funding? Will powerful special interests be allowed to control which water project types may be considered in the definition of "water development project" because they have the political power to do so?
Christopher Hall	Water League	1-Aug	Who determines funding priorities for various sectors of the community under section 1(b)? What if there is only funding for some members of the community but not others? What if competing local organizations seek funding for support of community engagement plans and limited funding prevents equal or equitable funding for all?
Christopher Hall	Water League	1-Aug	Will local organizations that receive funds from providers be required to have paid staff who hold professional qualifications in conflict and dispute resolution practices, and will the administrative rules set standards for what those qualifications are?

Christopher Hall	Water League	1-Aug	Change BP 3 To: #3 "Create or evaluate decision-making guidelines to improve access for disproportionately impacted communities. Design engagement to shape water project processes and outcomes, incorporating community perspectives. Scale guidelines to match project goals."
Christopher Hall	Water League	1-Aug	Change BP 5 To: #5 "Create inclusive water project opportunities, prioritizing disproportionately impacted communities. Invest in local organizations to build their engagement capacity while maintaining authentic relationships with all involved. Support may include compensating community members for participation."
Christopher Hall	Water League	1-Aug	Change BP 7 To: #7 "Coordinate with the community and water project participants to leverage resources, staff, and data to optimize community engagement, ensuring efficient use of everyone's time and resources, particularly those of community members."
Christopher Hall	Water League	1-Aug	Will the rules plan for what to do if water project progress worsens the impacts that a community experiences as the project inexorably moves forward given that it is a large project with a lot of investors and powerful political interests involved? Will the impacts be documents for all to see as a form of consolation for the harmed community members, or will the impacts be hidden to the greatest extent possible?
Christopher Hall	Water League	1-Aug	Will there be "grant reporting" required of local organizations following the dispersal of funds by providers to prove neutrality and strict adherence to the "10 Best Practices?"
Dana Kurtz	AP Anderson Perry	1-Jul	Developing a written plan or statement of work may be helpful to meet these goals and get buy in from stakeholders. Primary contact person and back up contact person to stay in the loop to help manage transitions.
Dana Kurtz	AP Anderson Perry	1-Jul	List of specific communities and contact information would be a great practical resource – i.e.: who OWRD thinks is included in the definition of disproportionately impacted communities – this can help outreach efforts.
Dave White	none	12-Jul	Activity in Case 3:24-cv-00755-JR White v. Coffman et al Motion (Columbia water use impacts on salmon)
Dona Beverage	Union County Commissioner	29-Jul	Comments on Place-based planning and issues funding projects w/o fish nexus
Gary Young	none	12-Jul	Defining groundwater and surface water, should be no difference
Gary Young	none	22-Jul	Defining groundwater and surface water, should be no difference
Gary Young	none	28-Jun	Defining groundwater and surface water, should be no difference

Holly Anne Norris	none	7-Jul	Delete the entire draft plan to plan some more, then produce an affidavit of all governmental employees of their sworn duty to inform the public in a timely manner and reserve opportunities to collaborate in the decision making
James Peterson	none	3-Jul	General statements around Riparian Zones and Beaver Dams
Michael Karnosh	Confederated Tribes of Grand Rond	29-Jul	Is OWRD providing more detailed, specific guidance around Tribal engagement? CTGR would definitely appreciate such a guidance document as it appears to be needed, and would be willing to provide input.
Rep. B. Levy	OR House of Representatives D58	29-Jul	Response to - Comments on Place-based planning and issues funding projects w/o fish nexus
Rose Poton	page	1-Aug	General comments about alignment with six water justice principles outlined in the Oregon Water Futures Water Justice Policy Action Framework
Rose Poton	verde	1-Aug	Funding is also needed to increase accessibility by providing childcare and food at in-person events, translation and transcription, and honoraria for participants.
Rose Poton	verde	1-Aug	To encourage the use of best practices in community engagement for water projects, it is essential to provide education, training, and tools tailored to different stakeholders involved in these projects. We would like to see education, training, and resources provided to project applicants.
Rose Poton	verde	1-Aug	On the other hand, we would like to see incentives, rebates, and support given to project applicants who include community engagement in their scope of work. This approach will not only encourage project applicants to do community engagement, but it will reward them in doing so.
Rose Poton	verde	1-Aug	We have already heard from multiple agencies that this process is not a priority and they are planning to take months to years to begin rule advisory committees or implementation. We recommend an implementation start date and set of metrics for compliance and/or check-ins that can be made available for transparency and review.

Rose Poton	verde	1-Aug	Additionally, we encourage a coordination plan between the agencies for the implementation phase of this policy. Although we know that state agencies were in coordination with drafting the Community Engagement Best Practices, we are concerned with the absence of coordination and communication during the implementation of HB 3293.
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REGULA-WHITEFIELD Charlotte M * WRD

From: Barbara <barbara@fizzleflat.com>
Sent: Thursday, August 1, 2024 9:51 AM
To: 3293 Hb * WRD
Subject: Involving Community Members

Follow Up Flag: Follow up
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The most efficient way to contact community members is direct post card mailings to permit water holders. Has been done. Works!

Barbara Cannady

REGULA-WHITEFIELD Charlotte M * WRD

From: Barbara <barbara@fizzleflat.com>
Sent: Thursday, August 1, 2024 9:45 AM
To: 3293 Hb * WRD
Subject: Engaging Community

Follow Up Flag: Follow up
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I attend meetings in Burns, Oregon regarding Harney County.

The biggest failure of all agencies, but specifically OWRD and related meetings, is not speaking to the community before inter agencies are involved. Agencies speak to each other all the time and have their agendas. Trying to add community members into that mix is depressing for the non-paid input responders. We are not climbing ladders. Just trying to defend ourselves against the "paid to be there" agendas. And to have all the agendas in place before their is a comprehension of what the plan is is discouraging, rated a waste of time because "they" are going to do what they are going to do, and red flag events to promote the paid careers.

In truth,

Barbara Cannady

From: [Holly Norris](#)
To: [3293 Hb * WRD](#)
Subject: Best practices for community involvement regarding water projects.
Date: Monday, July 8, 2024 2:42:22 AM

You don't often get email from hnorris94.hn@gmail.com. [Learn why this is important](#)

Hello,

Firstly, I hope we can all agree that it's time to stop outsourcing our community dollars on studies and reports that only regurgitate the obvious. If indeed money is spent under administrative causes to furnish a legal document that says way too much without saying anything at all...stop now. Delete the entire draft plan to plan some more, then produce an affidavit of all governmental employees of their sworn duty to inform the public in a timely manner and reserve opportunities to collaborate in the decision making process of current and future water projects and systems within the communities they live. Include the adverse action in which the people can seek remedy should they find their rights are not being protected and acknowledged. Thank you. Please send a confirmation this email was received.

Regards,

HollyAnne Norris

Public comments by Chris Gannon, of 1145 NE Brown Dr., Madras, OR 97741

christiang_5@yahoo.com (541) 815-9636

Comments offered are specific to the Oregon Water Resources Department's
Invitation to provide input on:

Best Practices for Community Engagement around Water Projects

Comments and questions are related to information presented on the OWRD website (in italics)

Water Projects include actions related to watershed enhancement, in-stream flow protection or enhancement, water resource conservation or development, or water supply and wastewater treatment and disposal projects. Water Project Support is planning, technical assistance, or financial support provided by state agencies related to a water project.

Q – How does OWRD funding these types of water projects differ from the OWEB funding programs for the same actions? Are the grant applications and review process the same? Will OWRD assign certain types of water projects to OWEB given they already have mechanisms and processes in place for them (instream flow protection or enhancement, for example)

Community Engagement Plan is a plan to meaningfully engage and provide suitable access to decision-making processes for disproportionately impacted communities, underrepresented communities, tribal communities, and all persons regardless of race, color, national origin, or income in planning for water projects using identified best practices.

Q – Similar to above – OWEB already has grant programs supporting these water-related activities and actions that support water project planning and community engagement, so what's differ and why the duplication if it exists?

#5 Co-create water project capacity opportunities that are inclusive, including to disproportionately impacted communities. *When possible, invest in community-based organizations to build their own capacity to engage and maintain authentic relationships among communities and the water projects. Community investment can take many forms including compensating community members for their participation.*

Q- Why include compensation for community members? I am highly concerned that this allowance can be easily manipulated and corrupted. What safeguards will be in place to ensure abuse is limited or controlled in the event public funds are used to compensate members for participating in community engagement? Will there be any oversight or constraints?

Overall, the 10 BMPs supporting this topic are appropriate. My concerns are for project cost and context-

Q- How do we account for all the time and effort required to implement the 10 practices? These activities are sub-projects themselves. COSTS.

Q- How far should a water project developer/advocate/funding partner go to bring in disproportionately impacted communities? How do you identify them in your area? Are there criteria? Is it only organized groups representing these interests or is it the individuals we want to collaborate with on the proposed water project? How do you effectively and consistently gauge/evaluate the effectiveness of your efforts to incorporate input from the disproportionately impacted communities? CONTEXT.

From: [Christopher Hall](#)
To: [3293 Hb * WRD](#); [REGULA-WHITEFIELD Charlotte M * WRD](#)
Cc: [PARRISH Sue R * WRD](#)
Subject: Water League Testimony on Best Practices for Community Engagement around Water Projects
Date: Thursday, August 1, 2024 9:43:31 AM
Attachments: [Water League commnets on OWRD DRAFT 10 Best Practices in Community Engaqement Around Water Projects.pdf](#)

Some people who received this message don't often get email from chris@waterleague.org. [Learn why this is important](#)

Dear Ms. Regula-Whitefield,

Please see attached to this email Water League Testimony on Best Practices for Community Engagement around Water Projects. [You may also find our testimony at this link.](#)

Please confirm receipt.

Thank you,

Christopher Hall
Executive Director
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WATER LEAGUE

*Water League engages the public
in water stewardship.*

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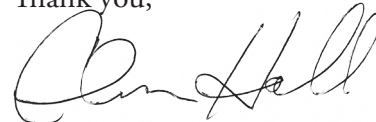
July 30, 2024

Charlotte Regula-Whitefield
Community Engagement Coordinator
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1271

Dear Ms. Regula-Whitefield,

Water League submits our comments to the 2024 Draft document titled “The 10 Best Practices in Community Engagement Around Water Projects” on the following pages. We appreciate the opportunity to share our thoughts.

Thank you,



Christopher Hall
Executive Director

House Bill 3293 – ORS 541.551

Community Engagement Planning for Water Projects

Testimony by Christopher Hall, Water League
July 30, 2024

Introduction

Ostensibly, legislators passed HB 3293 to ensure communities have a meaningful voice in water project planning. The law, ORS 541.551, includes a focus on ensuring that the people whom water projects disproportionately affect have a say in how the state and localities develop water projects. Our testimony herein strongly supports the excellent conceptual ideas in ORS 541.551 and the DRAFT document titled “The 10 Best Practices in Community Engagement Around Water Projects;” however, we also critique serious concerns about how public engagement could become a state-sponsored process to *manufacture consent* for unwanted water projects and that the community engagement will continue until the water projects reach their inevitable completion despite community opposition.

Our first recommendation, which we strongly suggest, is to seek the support of Oregon's Kitchen Table in the rulemaking process because they excel at community engagement and can assist OWRD staff in writing the rules to ensure they serve the public interest and don't become corrupted.

Background of ORS 541.551 to Set the Stage for Rulemaking

ORS 541.551 requires local organizations receiving water project support from state agency providers to develop and implement community engagement plans. The law mandates the use of best practices for community engagement planning to ensure that effective outreach methods are uniform across the state's diverse array of communities, each of which will have different, if not unique, needs. We imagine there will be statewide community engagement standards that localities shall adopt as their own. The administrative rules should guide this adoption.

Specifically, ORS 541.551 says that selected local organizations under section 1(d) must use the forthcoming best practices under section 2(c) if the activity is to be a community engagement plan funded by a state agency provider under section 2(a) & (b). There are optional conditions in section 3 that a provider may set on local organizations and governments, which appear to be guidelines on forthcoming administrative rules, required under section 4.

The 10 Best Practices (effective outreach methods), which would be tailored for each community, rely on:

- 1) the voluntary nature of community engagement and the ability to sustain community engagement, though some participants could be paid honorariums to participate, and

2) funding resource availability – there's no mention of any funding appropriations for provider grants to local organizations, so it's unclear if funds have been already appropriated or how much will be appropriated in the future, continuously, or otherwise. Securing sustainability among the communities and funding sources is a priority for the law and administrative rules to be effective.

Corruptibility of ORS 541.551 and the related Administrative Rules

While ORS 541.551 and the DRAFT document titled “The 10 Best Practices in Community Engagement Around Water Projects” (DRAFT) are well-intentioned and well-conceived, they risk becoming co-opted and abused. This section is a critique of how over-exposed the law and rules could become to manipulation if vigilance and diligence are not constantly pressed at all times. The administrative rules must attempt to prevent the corruption of ORS 541.551. Herein, we discuss the risk of the community engagement process becoming a systematic effort to *manufacture the consent* of the public to support (or oppose) water projects instead of empowering communities to experience agency, independent thinking, and to make free, prior, and informed decisions that are in their best interests. We know the legislative intent is to benefit communities; however, we do not believe that intent has been safeguarded. OWRD rulemaking has the opportunity to protect ORS 541.551 from becoming corrupted.

ORS 541.551(1)(b) identifies various communities that may be disproportionately impacted by water projects, such as rural, coastal, and several other criteria that track with low-income communities. Section 1(d)(B) defines a local organization as one that “operates in an area impacted by a water project.” The use of the term *impacted* does not mean or imply *benefitted*.

In the law and the DRAFT, there is no mention or representation of “disproportionally impacted communities” as being a good thing – as being understood or defined by the law as people who are *disproportionally benefitting* from water projects. There is no reasonable interpretation of ORS 541.551 that suggests community engagement planning is necessary to address the problems of water projects benefitting disproportionately impacted communities, or any of the other people envisioned in the law who would participate in community engagement planning because they are impacted. Impacted implies harm, not benefit, especially when the law modifies the verb “impacted” with the word “disproportionally.”

We argue that it is self-evident that “disproportionately impacted” is a euphemism for communities opposed to being harmed by water projects. By extension, the very purpose of ORS 541.551 envisions the need to address community concerns about water projects that are not inherently deemed by some of the community as a public good that is in their public interest. What would be the need for “Best Practices,” indeed, even mediocre practices, if water projects were uniformly regarded by communities as in their interest? That best practices are needed suggests that only the best community engagement efforts will do with projects that some communities may regard as harmful. The purpose of “best practices” is to ensure the voices of the most impacted are heard – that is the entire basis of ORS 541.551 and the DRAFT.

The DRAFT states on page 8 under the question “Why Conduct Community Engagement?” that:

It is important to consider that some water projects are not suitable for all communities, and this may result in some projects needing to be placed on hold or delayed achieving the best interests of the larger community.

We suggest that there will be some water projects that must be halted from moving forward to completion, not just delayed until community engagement has been resolved into consent for the project. Some communities may hold that certain water projects cannot ever receive their consent no matter the community engagement process that uses the very best of the “Best practices.”

While we acknowledge and support the need for community engagement on water projects to prevent harm to communities, we are concerned that state agency provider funding could be misused by forcing projects through completion more often than halting unwanted projects. We are also concerned that provider funding could be used to compel disproportionately impacted communities to accept minor revisions instead of acceding to their more comprehensive requests for reform or halting the project altogether. Omissions of text asserting *agency* among community members in ORS 541.551 highlight that community members may only offer advisory input. The DRAFT speaks highly of the notion that community members should be heard and included, but when proponents wish to advance a water project, especially if the proponents are government or powerful private investors, there are no laws ensuring community input will resolve in the disproportionately impacted community's favor.

We envision numerous scenarios; here is one possible scenario where:

- 1) The state or political subdivision of the state, acting on its own behalf or that of a private sector entity, proposes a water project, passes a law or resolution, and funds it;
- 2) A relevant state agency provider supports a local organization in the development and articulation of a community engagement plan to address complaints and views of the impacted community;
- 3) During the process, there is a chance a minority or majority of the community opposes the water project;
- 4) Despite this opposition, the project proceeds forward with minor changes that do not reasonably address the community's concerns;
- 5) There is the possibility of the public outreach becoming a *community disengagement process* that drives a wedge between those who stand to benefit from the water project and those who fear harm;
- 6) If a minority or majority were to protest that their input was ignored, there's nothing in ORS 541.551 that would compel the authorities to respond or change course – all community input is limited to advisory status. At this point, disaffected community members feel alienated and subject to 'politics as usual,' with the community engagement process perceived as a highly engineered system designed to provide political cover for the end result that felt inevitable.

We offer the following questions about accountability because ORS 541.551 is vague and

administrative rules will have to address them:

- 1) Will local organizations that receive funds from providers be required to have paid staff who hold professional qualifications in conflict and dispute resolution practices, and will the administrative rules set standards for what those qualifications are? Will the state agency providers monitor the activities and “10 Best Practices” to ensure compliance with ORS 541.551(2)(c)? If so, how will the monitoring take place?
- 2) Will the administrative rules require local organizations that accept financial or other support from providers to sign an affidavit that they neither support nor oppose the water projects and that they will maintain clear neutrality at all times during the contract period? Will bias in favor of or opposition to the water project by the local organization be cause for breach of contract and possible fines and violations of the law? Will there be “grant reporting” required of local organizations following the dispersal of funds by providers to prove neutrality and strict adherence to the “10 Best Practices?” Will providers require videos of all public meetings in the event providers request a review of activities? Will videos of public meetings be hosted by providers on YouTube?
- 3) Will there be requirements of “adaptive management” that local organizations must practice as a condition of the funding? If so, what would that look like? If not, is there a built-in assumption that all community engagement efforts do not need to reflect on progress and course-correct – for any reason? Would adaptive management be exposed to special interest corruption, where, in one possible scenario, a local organization is not adequately manufacturing the consent of the disproportionately impacted communities to get on board with the water project? With big-money projects, the power politics increase exponentially; how will big-time investors and special interests be prevented from pressuring local organizations to drive the public into submission?
- 4) Will local organizations be exposed to liability or tort claims by proponents of water projects if provider-supported local organizations lead community engagement activities that increase opposition to the water projects regardless of the intent or bias among the staff at the local organizations? Will professional qualifications in conflict and dispute resolution minimize this liability risk?
- 5) And for the obverse, will local organizations be exposed to liability or tort claims by opponents of water projects if those local organizations lead community engagement activities that increase support for the water projects regardless of the intent or bias among the staff at the local organizations?
- 6) Will volunteers be permitted to lead community engagement activities that are funded by providers (e.g.: will they be allowed to lead entire events or participate as assistants leading break-out groups)? To what degree do professionalism and liability interact and intersect in this context? Are there controls over whether community engagement becomes propaganda events? What happens if volunteers are moles for proponents and opponents (e.g.: lobbyists) and they misrepresent who they are and their true intentions? To what extent may some practice subterfuge to corrupt the community engagement process as 'harmless volunteers'? Would it rise to the level of a crime if they were local organization staff paid by the state agency providers?

With big-money projects, are these questions reasonable?

7) Will the state providers, defined under section 1(f), fund local organizations that clearly state they support the proposed (or funded) water project in their community and seek to press for project completion?

8) Will the same providers be as equally inclined to give support to local organizations who articulate up front that they oppose or are skeptical of certain water projects and align with members of the public who are disproportionately impacted by certain proposed water projects and oppose them? To what degree is professional neutrality required of provider-supported local organizations when working with the public?

9) What if the local organization is closely aligned with an impacted community, disproportionately, or otherwise, will they be automatically disqualified from being supported (e.g.: funded) by providers due to such privileged access or bias? Is there the possibility of providers funding quasi-seditious activities; where is the line drawn for acceptable community organizing? (So-called “water wars” and other histrionics have played out in the past and will do so in the future. What will happen if the state-sponsored agency providers inadvertently support belligerents such as those who occupied the Malheur National Wildlife Refuge?)

10) In the case of identifying disproportionately impacted people – are those people identified by the state agency providers as disproportionately impacted in advance of approving support for local organizations, or only after announcing the water projects and determining their status afterward? Who determines funding priorities for various sectors of the community under section 1(b)? What if there is only funding for some members of the community but not others? What if competing local organizations seek funding for support of community engagement plans and limited funding prevents equal or equitable funding for all? Is there a possibility the state agency providers will select the local organization that is shown to support the water project over others that may be more ambiguous, skeptical, or oppose the water project? Is there a need to determine the scale of disproportion in access to the public process of community engagement and prioritize funding that way? Do communities define their level of disproportionately impacted status or does the state agency provider?

11) Will provider-supported local organizations be required to track the evolution of impacts communities experience at the beginning, middle, and end of the community engagement processes? Would such impact-tracking be part of an adaptive management regime? Will the rules plan for what to do if water project progress worsens the impacts that a community experiences as the project inexorably moves forward given that it is a large project with a lot of investors and powerful political interests involved? Will the impacts be documents for all to see as a form of consolation for the harmed community members, or will the impacts be hidden to the greatest extent possible? To this point, will state agency providers require local organizations to fully document the community engagement process to ensure justice in the event something goes wrong or legal liabilities accumulate?

12) There is no mention of the possible conflict arising from organizations that act independently of the state-sponsored local organizations – would the local organizations be required to engage with these unaffiliated groups or address potential conflicts? What if the

disproportionally impacted community members feel like they have been alienated, or they disfavor the local organization to which they have been assigned by the state agency providers that selected which local organizations get funded – what if community members defect to a more representative organization, would that organization get funding from the state agency providers? How flexible is the funding model?

13) What are grounds for a local organization to breach the support contract they would necessarily have with the state agency providers? There could be a number of criteria that could lead to a breach of contract – what are those criteria? (Many of the above questions relate to such criteria.) What would the contracts look like? What civil or criminal penalties would apply for breach of contract? Are there scenarios where the local organization sues the state agency provider for breach of contract, or if one or more community members sue the local organization for corruption of the community engagement process and name the state agency providers as well? If the potential for manufacturing of consent of the public were a real act, how exposed would the state be to litigation?

14) ORS 541.551 defines water projects in section 1(e) [**emphasis added**]:

“Water project” includes watershed enhancement, in-stream flow protection or enhancement, **water resource conservation or development**, or water supply and wastewater treatment and disposal projects.

Water development projects typically consist of construction of new reservoirs or dams, expansion of existing water storage facilities, development of groundwater resources through new well fields, implementation of aquifer storage and recovery systems, construction of water diversion structures, development of water reuse or recycling systems, desalination projects in coastal areas, stormwater capture and use projects, and construction of new water treatment facilities to make previously unusable water sources available.

Will the administrative rules exclude certain water projects from the definition of “water project” on the basis that the state does not want community engagement involvement in certain water projects? If so, what will be the reasoning for the exclusion? Does the state believe that some projects are too risky, either because they are financially precarious and need all the help they can get to succeed (e.g.: affirmative action subsidies, biased media articles, public relations campaigns, etc.), or because they are so environmentally destructive, community engagement might lead to unwanted opposition and must be suppressed from the start?

Are there some water development projects the state believes the public is incompetent to understand and must not encourage community engagement through state agency provider funding? Will powerful special interests be allowed to control which water project types may be considered in the definition of “water development project” because they have the political power to do so? Will the public interest, as articulated by disproportionately impacted communities or even others that form a majoritarian view, take a back seat in the rulemaking process over the definition of what is and is not a water development project in the context of ORS 541.551 and the administrative rules?

15) Will organizations that have paid lobbyists on staff be eligible for support as a local

organization? If so, would the state-sponsored support of lobbyists cross any lines, legal, ethical, or otherwise? Are there any protocols envisioned by the forthcoming administrative rules on how to address the potential use or abuse of ORS 541.551 by the lobbying sector? How will the state avoid the unseemly prospect of paying lobbyists to carry out public relations campaigns that impact the progress of water projects or Oregon's water laws and administrative rules?

These questions address accountability: professional standards and qualifications, neutrality requirements, liability concerns, funding criteria/ fairness, monitoring and compliance, potential conflicts of interest, transparency in decision-making, equitable representation, and oversight mechanisms. The administrative rules required by ORS 541.551(4) will have to address these concerns to ensure that the so-called “10 Best Practices in Community Engagement Around Water Projects” remain incorruptible.

A potential feature of ORS 541.551 and the DRAFT is that community engagement will assist the most disproportionately impacted in coming to terms with the inexorable progress of water projects, one way or the other. The unmistakable message, which must not be made, is that community engagement will continue from the beginning, middle, to the end as needed to ensure project completion.

So much of the DRAFT is Excellent

Were the *manufacturing of consent* and the other noted concerns addressed (controlled for) in the administrative rules, then the precepts of ORS 541.551 and the DRAFT stand as visionary community engagement protocols we strongly support. We believe that if the benevolent precepts of ORS 541.551 and the DRAFT hold fast, the ideas and practices for community engagement could stand as an example for other states to follow.

The purpose of community engagement is well-stated in the DRAFT and makes an excellent case for getting the rulemaking process right:

This involvement between local communities and projects facilitates the exchange of invaluable local knowledge and insights, enriching the effectiveness and relevance of each water project. Additionally, fostering local community trust encourages transparency and cooperation among project organizers, regulatory agencies, and those impacted, thus promoting a sustainable and reliable water future for Oregon. (Pg. 3)

The point is made again, shortly after:

The success of Oregon’s long-term water solutions hinges on broad community support, amplifying engagement across various water sectors, and promoting initiatives that benefit the environment, economy, and Oregon's diverse communities. (Pg.3)

Both statements make community engagement an integral feature of securing water for the future. The who, what, where, when, why, and how section of the DRAFT is an excellent, if brief, discussion on the most important facets of community engagement. The administrative rules should incorporate this information in a manner that captures the intent while properly fitting within the formal rules language

and format. This is one area where Oregon's Kitchen Table (OKT) excels, and we can see how their involvement would be very helpful. We urge the comprehensive involvement of OKT throughout the rulemaking process.

OKT would also be helpful in shaping the excellent “10 Best Practices” into rules-based language. We assume that OWRD intends to include the practices directly into the administrative rules, and OKT can help ensure they are worded well. Ironically, some of the draft language of the 10 best practices is impenetrable and would be inaccessible to many people. The language should be more accessible and use less jargon. Best practices #3, #5, and #7 are most in need of rewriting. OKT could do a much better job than our sample efforts below.

Please consider these examples:

Changing #3 from: “Develop new, or assess current, decision-making frameworks to identify opportunities to enhance access to the decision-making process for disproportionately impacted communities. Engagement should be designed to inform water project processes and outcomes and incorporate communities’ perspectives and needs. Frameworks should be scaled to the water project goals.”

To: #3 “Create or evaluate decision-making guidelines to improve access for disproportionately impacted communities. Design engagement to shape water project processes and outcomes, incorporating community perspectives. Scale guidelines to match project goals.”

...

Changing #5 from: “Co-create water project capacity opportunities that are inclusive, including to disproportionately impacted communities. When possible, invest in community-based organizations to build their own capacity to engage and maintain authentic relationships among communities and the water projects. Community investment can take many forms including compensating community members for their participation.”

To: #5 “Create inclusive water project opportunities, prioritizing disproportionately impacted communities. Invest in local organizations to build their engagement capacity while maintaining authentic relationships with all involved. Support may include compensating community members for participation.”

...

Changing #7 from: “Coordinate with the community and across water project participants to leverage resources, staff, and data. Water projects should clearly identify ways to optimize community engagement considering effective use of community members’ time and resources.”

To: #7 “Coordinate with the community and water project participants to leverage resources, staff, and data to optimize community engagement, ensuring efficient use of everyone's time and resources, particularly those of community members.”

We realize the value of using base ten as a heuristic to capture the attention of people when the information might otherwise go unnoticed. However, we do not think the administrative rulemaking is

the correct venue for a top ten list because the content is much more serious than typical uses of top ten lists, and requires getting the correct number of best practices. Would the practices be more comprehensible if there were 7 or 13 of them? Please consider reviewing the best practices and listing them in the most accurate and comprehensible way.

We point out a few picayune typos in the DRAFT, although, we expect the overall text to change to the extent these edits may become moot [**emphasis added**]:

On page 3: “However, as drought conditions in Oregon continue to increase in intensity and duration, and Oregon’s population centers continue to grow, the state's water scarcity concerns and need for inclusive water project solutions ever **increases**. [Delete the “s” in “increases.”]

On page 3: “Engagement improves projects and helps Oregon **meets** the water needs of its economy, environment, communities, and cultures.” [Delete the “s” in “meets.”]

On page 5: “Water projects should seek out and facilitate the involvement of members of **disproportionality** impacted communities.” [Change “ disproportionality” to “disproportionately.”]

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Hall", written in a cursive style.

Christopher Hall
Water League

From: [Kimberley Priestley](#)
To: [3293 Hb * WRD](#)
Subject: Comments, Community Engagement Best Practices
Date: Tuesday, July 30, 2024 1:28:13 PM
Attachments: [comments community engagement funding july 2024.pdf](#)

You don't often get email from kjp@waterwatch.org. [Learn why this is important](#)

Hello,

Attached please find WaterWatch's comments on the Best Practices for Community Engagement.

If you have any questions, please reach out.

Best, Kimberley

Kimberley Priestley/Senior Policy Analyst
WaterWatch of Oregon
P: 503.295.4039 x107
213 SW Ash St, Suite 208
Portland, OR 97204
www.waterwatch.org

[Join WaterWatch to Protect and Restore Oregon's Rivers](#)

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REGULA-WHITEFIELD Charlotte M * WRD

From: Donna Beverage <dbeverage@union-county.org>
Sent: Monday, July 29, 2024 10:09 AM
To: 3293 Hb * WRD
Cc: CROWELL Courtney * GOV
Subject: Comments on Community Engagement

Follow Up Flag: Follow up
Flag Status: Completed

You don't often get email from dbeverage@union-county.org. [Learn why this is important](#)

I appreciate the state funding Place-based planning. We were one of the 4 pilot projects. We are now in the feasibility stage and have identified 4 projects for more study.

Some State staff are against any project unless it only benefits fish and that has been a huge stumbling block. Any concern should also have a possible solution to that problem and a way to move forward and become successful in implementation.

I would ask that staff at the State agencies be more solution oriented instead of looking at potential barriers. If there is a barrier, the rule or language needs to be stated. Too much red tape and not enough data to back up decisions. ONE SIZE DOES NOT FIT ALL when making water rules for Oregon.

Thank you for your time.

G rqqd#
Commissioner Beverage
Union County
1106 K Ave. La Grande, OR 97850
541-963-1001 cell 541-786-1492

Home of the Beautiful, Historic Grande Ronde Valley!!

REGULA-WHITEFIELD Charlotte M * WRD

From: Dave White <dave@salmonprotectiondevice.com>
Sent: Friday, July 12, 2024 6:13 PM
To: Dave White
Subject: Activity in Case 3:24-cv-00755-JR White v. Coffman et al Motion - Miscellaneous
Attachments: motion_response_to_dismissal.pdf; motion_judicial_notice.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Some people who received this message don't often get email from dave@salmonprotectiondevice.com. [Learn why this is important](#)

Filed response to dismissal today. Also Judicial Notice with actual case facts not your fake case facts. Courts can no longer be administrative law and federal and state agencies can't cherry pick data to support their false conclusions.

Some grass growing up through the silt will be contaminated and any animal eating it will die. Arsenic and Chromium 6 and dioxins in the fish and in the sediment behind the dams. See chapter three.

See https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf

The issue with the salmon in the Columbia river is not the dams. It's the sea lions.

We can help you write an injunction against what this judge did based on junk science. As long as a dam has a fish ladder then the fish are trained to go there. However like the Columbia river the Sea Lions wait at the fish ladder entrance downstream of the dam. <https://salmonprotectiondevice.com/>

Dave White Chemical Engineer with Graduate 461 Statistics.
503-608-7611

From: info@ord.uscourts.gov [<mailto:info@ord.uscourts.gov>]
Sent: Monday, July 8, 2024 3:54 PM
To: nobody@ord.uscourts.gov
Subject: Activity in Case 3:24-cv-00755-JR White v. Coffman et al Motion - Miscellaneous

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U.S. District Court

District of Oregon

Notice of Electronic Filing

The following transaction was entered on 7/8/2024 at 3:53 PM PDT and filed on 7/8/2024

Case Name: White v. Coffman et al

Case Number: [3:24-cv-00755-JR](#)

Filer: David White

Document Number: [65](#)

Docket Text:

Motion *PLAINTIFF RESPONSE TO FINDINGS AND RECOMMENDATION*. Filed by David White. (Attachments: # (1) Attachment Judicial Notice of case facts) (White, David)

3:24-cv-00755-JR Notice has been electronically mailed to:

David White dave@salmonprotectiondevice.com

Julia E. Markley jmarkley@perkinscoie.com, docketpor@perkinscoie.com, JeannetteKing@perkinscoie.com, skroberts@perkinscoie.com

Laura Godfrey Zagar lzagar@perkinscoie.com

Megan K. Houlihan mhoulihan@perkinscoie.com, BJones@perkinscoie.com, docketpor@perkinscoie.com

Richard Roos-Collins rcollins@waterpowerlaw.com, office@waterpowerlaw.com

3:24-cv-00755-JR Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:Not Available

Electronic document Stamp:

[STAMP ordStamp_ID=875559790 [Date=7/8/2024] [FileNumber=8629873-0] [8d3214cede5af63cd2da7265cc73eb16285c4506ef2f25340746662b5d9a5e00fe7865c2d11ea09a2e9152f448d1ee2a685486713c11966c58f60a6adfa4d266]]

Document description:Attachment Judicial Notice of case facts

Original filename:Not Available

Electronic document Stamp:

[STAMP ordStamp_ID=875559790 [Date=7/8/2024] [FileNumber=8629873-1] [3
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1b936e83193e0bf9468527a38c406354bbe852e981bfb59525edcfaf0]]

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3 PORTLAND DIVISION
4

5 **Case 3:24-cv-00755-JR**

6 **David White, Pro Se**
7 **18965 NW Illahe St,**

8 **Portland OR.**

9 **dave@salmonprotectiondevice.com**

OBJECTIONS TO
FINDINGS AND
RECOMMENDATION
United States Magistrate
Judge Jolie A. Russo

10
11
12 **vs.**

13
14 **Defendant 1. (D1)**

15 **Dave Coffman, as geoscientist**

16 **dcoffman@res.us**

17 **Resource Environmental Solutions, (RES)**

18 **Corporate Headquarters – Houston**

19 **6575 West Loop South, Suite 300**

20 **Bellaire, TX 77401**

21 **713.520.5400 x6134**

22 **Defendant 2. (D2)**

23 **Mark Bransom in his capacity as Chief Executive Officer of**

24 **Klamath River Dam Renewal Corp. (KRRC)**

25 **info@klamathrenewal.org**

26 **Defendant 3 (D3)**

27 **Klamath River Renewal Corporation**

28 **2001 Addison Street, Suite 317**

29 **Berkeley, CA 94704**

30 **Phone: 510-560-5079**

31
32 **Legal Counsel for D2 and Klamath River Renewal Corporation (KRRC),**
33 **(D3)**

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35 **JMarkley@perkinscoie.com**

36 **Megan Kathleen Houlihan, OSB No. 161273**

37 **MHoulihan@perkinscoie.com**

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11 Water and Power Law Group PC

12 2140 Shattuck Avenue

13 Suite 801

14 Berkeley, CA 94704

15 Telephone: 510.296.5589

16 *Attorneys for Defendants Mark Bransom and*

17 *Klamath River Renewal Corporation*

18

19 1) 18 USC 3 accessory after the fact.

20 2) 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;

21 3) Scott, J. M. & Karl, J. (1999) "Local and national protection of
22 endangered species: An assessment," *Environmental Science & Policy*, 2,
23 pp. 43-59.

24 4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on
25 wildlife refuges.

26 5) The Endangered Species Act of 1973,

27

28 <https://www.fws.gov/laws/endangered-species-act/section-11>

29

30 6) 18 U.S.C. § 1001 False Statements, Concealment

31

32 7) 29 CFR § 1606.8 (1) – Harassment Has the purpose or effect of creating

33

34 creating an intimidating, hostile or offensive working environment

35

36 8) 28 U.S. Code § 4101 The term "defamation" means any action or other

37

38 proceeding for defamation, libel, slander, or similar claim alleging that

39

40 forms of speech are false, have caused damage to reputation or

41

1 emotional distress, have presented any person in a false light, or have
2
3 resulted in criticism, dishonor, or condemnation of any person.

4
5 9) 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404.

6
7 10) 29 CFR § 1606.8 (1)

8
9 11) 28 U.S. Code § 4101.

10
11 12) USC Loper Bright Enterprises v. Raimondo and Relentless, Inc. v.
12 Department of Commerce.

13
14 13) 29 CFR § 1606.8 (1),

15
16 14) 28 U.S. Code § 4101.

17
18 15) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan
19
20 was Pro Se and made numerous mistakes in filing his complaint resulting
21
22 in the case being dismissed. However, upon appeal, the higher Court
23
24 ruled that the lower Court was in error because they did not give allowance
25
26 for Pagtalunan's lack of legal training.

27 28 **Summary**

29
30 This response motion is written because of a clearly biased Order ECF
31
32 63.

33
34 Order 63 is clearly an administrative law order not an order under Article
35
36 III Court of the Constitution of the United States of America. Perhaps the
37
38 Court was unaware of the U.S Supreme Court Opinion on June 28th,
39
40 2024 in Loper Bright Enterprises v. Raimondo and Relentless, Inc. v.
41

1 Department of Commerce. This opinion is retroactive because it is merely
2 restating and affirming Article III of the U. S. Constitution.

3
4
5 Additionally, the Court is required to give Plaintiff allowance for lack of
6 legal Training, per item 15 in Table of Authorities. Only Plaintiff's pleadings
7 were denied for mere procedural violations, thus blocking timely attention to
8
9 substantive issues concerning the ongoing illegal assault on the
10
11 environment and violation of numerous environmental laws already cited.
12
13

14
15 Plaintiff requested clarification, but none was provided, in violation of
16
17 *Pagtalunan v. Galaza*, which requires a pro se litigant receive special
18
19 allowances for lack of legal training.

20
21 Meantime, none of Defendants' illegal and untimely pleadings were
22
23 denied, when all were illegitimate and out of order as we have
24
25 demonstrated. If this isn't corrected it will be easy grounds for appeal to the
26 9th Circuit Court of Appeals. This allowance was not considered when
27
28 some of Plaintiff's pleadings were denied because of running rulings
29
30 requested. Plaintiff corrected them with Fed Rule 15 amendments, but
31
32 these were ignored. Plaintiff Pleadings are truthful and in compliance with
33
34 case law and federal law. In stark contrast, Defendants' pleadings
35
36 are a deceptive misapplication of case law and federal law.

37
38 The U.S. Supreme Court in *Loper Bright Enterprises v. Raimondo*
39
40 and *Relentless, Inc. v. Department of Commerce* ruled that Federal
41

1 Courts can no longer function as administrative law courts. Plaintiff,
2 therefore, requests this Federal Court to convene as an Article III Court
3 under the Constitution of the United States of America. In addition,
4 agencies such as the Federal Energy Regulation Commission are no
5 longer permitted to cherry pick stakeholder responses. This was clearly the
6 case when the overwhelming vote of local residents and 100 pages of
7 public testimony unanimously opposed to dam removal, was ignored.
8

15 Notice of Electronic Filing

17 The following transaction was entered on 7/1/2024 at 11:37 AM PDT and
18 filed on 7/1/2024

19 Case Name: White v. Coffman et al

20 Case Number: 3:24-cv-00755-JR

22 Filer:

23 Document Number: 63

26 Docket Text:

27 Findings & Recommendation: Defendants' Motion to Dismiss (doc. [37])
28 should be granted. Defendants' Requests for Judicial Notice (docs. [38],
29 [61]) should be granted in part as stated herein, and all other pending
30 motions (including docs. [5], [31], [32], [40], [41]. [42], [43], [45], [46], [50],
31 [51], [53], [54], [55], [62]) should be denied as moot for lack of subject
32 matter jurisdiction. Plaintiff's request for oral argument is denied as
33 unnecessary. Signed on 7/1/24 by Magistrate Judge Jolie A. Russo. (gm)

35 It is crystal clear from the ruling that the Court has inadvertently accepted
36 Defendants' patently untruthful statements and diversionary tactics
37 without question. Plaintiffs' complaint is directed to the environmental
38 damage that Defendants have inflicted and continue to inflict. Defendants
39
40
41

1
2 are RES and KRRRC, *not* FERC! FERC violations have been cited as
3
4 evidence and nothing else.

5
6 To illustrate with a ridiculous example, suppose the plaintiff in a murder trial
7
8 referred to a particular pistol as the murder weapon and defendant then
9
10 pleaded not guilty because the pistol was the assailant, not the defendant,
11
12 by plaintiff's own admission in referring to the pistol. That makes as much
13
14 sense as Defendants' absurd attempt to make FERC or the FERC
15
16 document a defendant in this case.

17
18
19 Plaintiff is dismayed by this order. It shows clear bias in favor
20
21 of defendants and bias against Plaintiff. The motions denied are all
22
23 Plaintiff's. The motions denied should have been ECF 18. ECF 37 and
24
25 ECF 38, as untimely. ECF 18 contained untruthful statements which
26
27 Defendants can't prove and also erroneous use of case law and federal
28
29 law. Defendants stated in ECF 18 that the case doesn't commence until the
30
31 summons is delivered to Defendants. As the Court is well aware, this is not
32
33 true as explained by an amended filing. It also alleged that the mere filing
34
35 gives Defendants an extension. However, as the Court is well aware, an
36
37 extension may be granted only by means of a MOET. ECF 18 must
38
39 therefore, be rejected in violation of three federal laws! ECF is 18 U.S.C. §
40
41 1001, 29 CFR § 1606.8 (1), 28 U.S. Code § 4101.

1
2 The case started on March 3rd . 2024. Defendants' legal counsel was
3
4 served on May 7th, 2024. Twenty-one days makes May 28th the last day
5
6 to file anything against the complaint. ECF 37 and ECF 38 were filed May
7
8 31st and therefore, outside the time limit without a MOET. However, ECF
9
10 63 says service was May 7th which makes May 28th the final day for
11
12 defendants to file any pleading against the complaint. As the Court is well
13
14 aware, that is the requirement of the Federal Law. Meantime, Plaintiff's
15
16 ECF 5 requests for a legal injunction for a stop work order to prevent
17
18 Defendants inflicting further damage to the environment is being ignored.
19
20 ECF 31 and ECF 32 were correct legal motions with no legal basis to
21
22 reject them. ECF 40, ECF 41. ECF 42, ECF 43, ECF 45, ECF 46, ECF
23
24 50, ECF 51, ECF 53 and ECF 54 were correct legal motions with no legal
25
26 basis to reject them. ECF 41, ECF 42, ECF 46, ECF 50, ECF 51 were
27
28 amendments of previous pleadings and must be considered by Federal
29
30 Rule 15.

31
32 Why are Judges Russo and Nelson not responding with a concern for
33
34 environmental violations commensurate with that exhibited by the FBI and
35
36 the Federal Prosecutor in Portland, Oregon?

37
38 Below is an email sent on July 1st, 2024 to Defendants' legal counsel
39
40 describing how the Portland Oregon Federal Prosecutor has ordered the
41

1 FBI investigation of defendant on felony charges. This is more than
2
3 sufficient grounds for the injunction to “stop work” in order to allow time for
4
5 justice to be served one way or the other in compliance with the FBI
6
7 investigation.

8
9 This morning the Federal Prosecutor in Portland, Oregon initiated the
10
11 FBI’s investigation into your clients’ alleged crimes. These involve the
12
13 confessed killing of about 2000 fish without permit, including endangered
14
15 Salmon, and destruction of a herd of elk because of failure to install
16
17 required fencing. Not to mention downstream destruction of all aquatic life
18
19 in 120 river miles below the Iron Gate Dam in January 2024.

20
21 Federal Laws Broken

22
23 18 USC 3 accessory after the fact.

24
25 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;
26
27 Scott, J. M. & Karl, J. (1999) “Local and national protection of endangered
28
29 species: An assessment,” Environmental Science & Policy, 2, pp. 43-59.

30
31 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on
32
33 wildlife refuges.

34
35 The Endangered Species Act of 1973,

36
37 <https://www.fws.gov/laws/endangered-species-act/section-11>

38
39 **33 U.S.C. §1251 et seq. (1972) Clean water act**

40
41 “There is no debate that the release of about 5-million metric yards of

1
2 sediment from Iron Gate Dam on January 23, 2024, killed virtually all
3
4 aquatic lifeforms in the Klamath River all the way to the coast.

5
6 <https://www.siskiyou.news/2024/03/09/anyone-remember-the-1964-klamath-river-flood/>
7

8
9 This email was sent to Defendants' Legal Counsel about the 2018 FERC

10
11 Document:

12
13 "I filed the amended memorandum of points against the 2018 FERC
14
15 document yesterday and it was accepted by the Federal Energy Regulated
16
17 Commission (FERC) today. FERC didn't follow their own rules in making
18
19 the 2018 document which is the foundation for the 2021 FERC document
20
21 releasing the failed project to your clients. They didn't use California Water
22
23 Board 2017 overwhelming testimony against dam removal. They also knew
24
25 about and ignored the vote of 78% of Siskiyou County against dam
26
27 removal.

28
29 The FERC Office of the Secretary has accepted the following electronic
30
31 submission for filing (Acceptance for filing does not constitute approval of
32
33 any application or self-certifying notice):

34
35 -Accession No.: 202406265188
36 -Docket(s) No.: P-14803-000
37 -Filed By: Dave White
38 -Signed By: Dave White
39 -Filing Type: Court Related Documents

1 -Filing Desc: Dave White submits Memorandum of Points re White v.
2 Coffman, et al. of the United States District Court for the District of Oregon
3 Portland Division (Case No. 3:24-cv-00755-JR) under P-14803.

4 -Submission Date/Time: 6/26/2024 4:51:46 PM -Filed Date: 6/26/2024
5 4:51:46 PM

6
7 Your submission is now part of the record for the above Docket(s) and
8 available in FERC's eLibrary system at:

9
10 https://elibrary.ferc.gov/eLibrary/docinfo?accession_num=20240626-5188
11
12
13

14 **Argument**

15
16 Plaintiff reviewed ECF 63 Order of July 1st, 2024, in this case. Below is a
17 description of legal errors.

18
19 Page 2 under the heading background. "This case arises out of plaintiff's
20 efforts to stop the planned demolition of a series of dams on the Klamath
21 River." This is false and based on untruthful statements of Defendants'
22 legal counsel. FERC is *not* a Defendant! The laws broken by defendants
23 are environmental law. This case is clearly about defendants' assaults on
24 the environment. ECF 1 contains excerpts from an OPB article about a
25 press conference where Defendants admitted committing these crimes.
26
27

28
29 There is no relation of this case to Linthicum, 2023, which was suing FERC
30 *not* the defendants. This is another untruthful statement of Defendants',
31
32 Legal Counsel.
33

34
35 Page 3 line 1 says "(the various stakeholders agreed that the dam removal
36
37
38
39
40
41

1 and river restoration would be overseen by a newly formed entity called the
 2 [Renewal Corporation]”. Stakeholders did not agree to any such dam
 3 removal. Over 80% of stakeholders (people) who live in Klamath Falls and
 4 Yreka, California (the two largest population areas) disagree with removing
 5 the dams.
 6

7 FERC listened only to the Native Indians, California and Oregon Water
 8 boards. They held public meetings and didn't include them in their 2018
 9 report, except items 24-30. This is explained in detail in ECF 26
 10 Motion MEMORANDUM OF POINTS AMENDED filed by David White.
 11 (White, David) (Entered: 06/03/2024).
 12

13 The following link should be known as “the FERC document” document:
 14

15 https://elibrary.ferc.gov/eLibrary/search?q=searchtext%3D*%26searchfulltext%3Dtrue%26searchdescription%3Dtrue%26datatype%3Dfiled_date%26startdate%3D1904-01-01%26enddate%3D2022-02-11%26docketnumber%3D%26subdocketnumbers%3D%26accessionnumber%3D20180315-3093%26filing%3Dfalse%26alldates%3Dtrue
 16
 17

18 Original Memorandum filed in FERC online. This is ECF 12. They (FERC)
 19 cherry picked data which is illegal by USC Loper Bright Enterprises v.
 20 Raimondo and Relentless, Inc. v. Department of Commerce.
 21
 22

23 Confirmation of Receipt

24 -----
 25

26 This is to confirm receipt by the FERC Office of the Secretary of the
 27 following electronic submission:
 28

29 -Submission ID: 1530458
 30
 31
 32
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42

1 -Docket(s) No.: P-14803-000
2 -Filed By: Dave White
3 -Signed By: Dave White
4 -Filing Desc: Application for Surrender of License of Dave White under P-
5 14803-000. The FERC document was not followed by defendants. No
6 required mitigation was done and 2000 fish including endangered salmon
7 were killed and a herd of elk killed by defendants.
8 -Submission Date/Time: 7/2/2024 10:29:35 PM -Projected Filed Date/Time:
9 7/3/2024 8:30:00 AM (Subject to Change based on OPM/FERC Closure)

10

11

12 Page 4, line 5 says “The Renewal Corporation thereafter began

13

14 undertaking the engineering, construction, and environmental restoration

15

16 necessary to decommission the Klamath River dams, as well as to

17

18 implement the Clean Water Act Section 404 permit.” The words

19

20 “environmental restoration” must be changed to “environmental

21

22 destruction.”

23

24 Page 4, lines 8 and 9 says “the Renewal Corporation’s habitat restoration

25

26 contractor – has performed ongoing biological monitoring and will continue

27

28 work after dam removal is complete.” Defendants saying something in a

29

30 FERC report and actually doing it are two completely different things.

31

32 FERC has no one on location overseeing the environmental destruction.

33

34 Like the Defendant’s rigged chemistry test the mitigation was not performed

35

36 and over 2000 fish including endangered salmon, and a herd of elk died.

37

38 Not to mention destruction of all aquatic life in the Klamath River below the

39

40 Iron Gate Dam due to Defendants’ ill-advised release of contaminated

41

1 sludge water on January 23, 2024.

2

3 Therefore, their alleged mitigation did not mitigate anything! ECF 12 Items

4

5 24-30 are the mitigation which was supposed to occur. The FERC

6

7 document was from 2018. Defendants had 5 years to perform effective

8

9 mitigation, such as removal of the silt behind the dams and installing game

10

11 fencing.

12

13 The image below is typical of the river above Iron Gate Dam, showing

14

15 contaminated silt on both sides of the river with no cleanup. Also newly

16

17 installed fencing after many animals dies stuck in the silt.

18

19 Some grass growing up through the silt will be contaminated and any

20

21 animal eating it will die. See

22 [https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)

23 [Evaluation-of-Contaminants-in-Sediments.pdf](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)

24

25 Arsenic and Chromium 6 in the sediment behind the dams. See chapter
26 three.

27



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Page 5 lines 4 to 6. “District Judge Nelson denied each motion on the grounds that “[n]one of these requests are within the Court’s discretion, properly raised at this stage of the proceedings, or procedurally appropriate.” This is inaccurate. Every one of the motions is within the Court’s discretion, citing violations of federal law. Any Court can decide what motions to allow or not. ECF 12 only describes the nonsense in the 2018 FERC document. Because of this the Court for the purposes of this case could only rule the 2018 FERC document null and void. The Court also has discretion to approve ECF 5 injunction while the pleadings were uploaded. The Court also has adjudication discretion.

1
2 Page 5 lines 8-12. "On May 16, 2024, defendants moved to set a briefing
3
4 schedule regarding plaintiff's Motion for Preliminary Injunction and their
5
6 forthcoming Motion to Dismiss, denoting plaintiff "has not yet served any of
7
8 the Defendants with a summons and copy of the Complaint . . . so there
9
10 are not yet any deadlines for Defendants to respond to either the Complaint
11
12 or the Motion for Preliminary Injunction.". This statement is simply not true.

13
14 It should say on May 16, 2024, defendants moved to set a briefing
15
16 schedule regarding plaintiff's Motion for Preliminary Injunction and their
17
18 forthcoming Motion to Dismiss. However, this is denied for untruthfully
19
20 stating that Plaintiff had not served them. Plaintiff Served them on May 7th,
21
22 2024.

23
24 In addition, this pleading used case law and Federal law erroneously. This
25
26 pleading doesn't give Defendants an extension; only a MOET could grant
27
28 such an extension. Therefore, the last legal time for defendants to file was
29
30 May 28th. Plaintiff would not agree to stipulate May 17th, 2024 for date of
31
32 service because it is a fabrication of Defendants.

33
34 Page 5 lines 17 to 20 are the truth backed by law.

- 35
36 1. Fed. R. Civ. P. 4(e)(1) "Following state law for serving a summons...
37 a. Oregon law email service is allowed. UTCR 8 21.10 (2)
38 2. Rule 4M states plaintiffs can serve the summons up to 90 days after
39 the complaint is filed.
40 3. Rule 16 3 says "discouraging wasteful pretrial activities;". Defendants
41 said it means, "Therefore, this Court has inherent power to treat the

1 Motion as one for an extension of case deadlines under Local Rule
2 16-3 and should do so to avoid prematurely resolving the case
3 without considering the parties' substantive arguments". This is
4 wrong!

5 4. Defendants also cited Fed. R. Civ. P. 3. to say: "Further, an action is
6 not commenced until issuance and service of a summons. " However,
7 (4) says "This rule provides that the first step in an action is the filing
8 of the complaint."

9 5. The overall thrust of this document is a series of false statements,
10 constituting Concealment—18 U.S.C. § 1001

11
12 Page 6 under heading DISCUSSION. Defendants' argument doesn't hold
13 legal water. Defendants are RES and KRRC, *not* FERC. References to
14 FERC are simply references to evidence affecting the case against RES
15 and KRRC. By exposing errors in the FERC document Plaintiff was laying
16 the groundwork for expose of Defendants' illegal actions. When FERC
17 makes the 2018 document null and void then the 2021 surrender document
18 will become null and void. FERC cherry picked testimony to fit their agenda
19 and ignored 80% or more of residents who want to preserve the dams.

20
21 Page 7 lines 2 and 3. "and plaintiff "fails to demonstrate how Defendants
22 failed to comply with the mitigation measures required by the Surrender
23 Order". This is ludicrous. In several pleadings, including this one, plaintiff
24 provided the FERC 2018 document link and item that required mitigation
25 prior to removal of any dam. This mitigation was stated in a KRRC FERC
26 report. However, no mitigation was effected to keep fish and animals from
27 being killed.
28
29
30
31
32
33
34
35
36
37
38
39
40

1
2 Page 7 lines 6 to the end are legally and factually correct.

3
4 Page 9 lines 15 –17 says “(“public record[s] downloaded from a public
5
6 agency’s official website . . . are subject to judicial notice under Federal
7
8 Rule of Evidence 201”). Notably plaintiff relies on several of these
9
10 documents in his complaint and various motions.” These links are to the
11
12 2018 and 2021 FERC documents which Plaintiff examined line by line and
13
14 debunked, in the same way this pleading debunks ECF 63.

15
16
17 Page 10 under “B” Lines 15 to 19 says “The docket reflects that defendants
18
19 were not served until June 5, 2024, making June 26 the deadline for
20
21 responding to the Complaint. In any event, defendants sought leave from
22
23 the Court well in advance of May 28 to file their Motion to Dismiss. As such,
24
25 plaintiff’s assertion that defendants’ Motion to Dismiss is improper or
26
27 untimely is not born out by the Federal or Local Rules of Civil Procedure, or
28
29 the record before the Court.”

30
31 As explained previously ECF 18 filed on May 16th must be rejected. Yes,
32
33 the court has inherent authority to control dispositions in its docket.

34
35 However, if the court rejects plaintiffs' pleadings simply because of a
36
37 running list of requested rulings then ECF 18 must surely be rejected for
38
39 breaking three federal laws! ECF is 18 U.S.C. § 1001, 29 CFR § 1606.8
40
41 (1), 28 U.S. Code § 4101. This was detailed in ECF 55 filed June 16th 2024,

1
2 Motion amended ex parte motion to reject dismissal. Plaintiff, therefore,
3
4 has proven with Federal Law that ECF 18 must be denied!

5
6 Page 11 Section II Federal Power Act is not applicable. Again, Defendants
7
8 are not FERC! It is up to FERC or Appeal court to rectify the FERC
9
10 documents. FERC violated the new US Supreme Court Ruling on 28th June
11
12 2024. FERC cherry-picked data from overwhelming testimony against dam
13
14 removal. 80% of residents from Klamath Falls Oregon to Yreka California
15
16 (the Klamath basin) are and were against Dam removal. 2017 California
17
18 Water Board testimony bears this out in ECF 46. Doctors' testimony about
19
20 Chromium 6 poisoning and other PhD's calling Defendants valis names.
21
22 Testimony of California Safety of Dams that there was nothing wrong with
23
24 the 4 Klamath basin dams. This diatribe continues on Page 11 through the
25
26 second paragraph.

27
28 Page 12 lines 18 to Page 14 section III. An excerpt is: Congress
29
30 established a system for dealing with complaints to FERC and created a
31
32 special procedure to review FERC's action or inaction . . . the complainant
33
34 must first appeal the FERC action to the full commission, and then request
35
36 a rehearing . . .

37
38 This is exactly what Plaintiff has done. Plaintiff attached both ECFs
39
40 described above against FERC Docket P-14803-000. Next plaintiff will
41

1 request a hearing with FERC.

2
3 Page 13 second paragraph lines 3 – 7 are erroneous. Plaintiff has
4
5 described in this document and many dismissed pleadings about the
6
7 required mitigation. Item e from the FERC document P-14803-000.

8
9 The following link should be known as “the FERC document” document:

10
11 https://elibrary.ferc.gov/eLibrary/search?q=searchtext%3D*%26searchfulltext%3Dtrue%26searchdescription%3Dtrue%26datetype%3Dfiled_date%26startdate%3D1904-01-01%26enddate%3D2022-02-11%26docketnumber%3D%26subdocketnumbers%3D%26accessionnumber%3D20180315-3093%26efiling%3Dfalse%26alldates%3Dtrue
12
13
14
15

16
17
18 Item (e) states “the Renewal Corporation, the States, and PacifiCorp
19
20 are each assured that their respective risks associated with facilities
21
22 removal have been sufficiently mitigated consistent with Appendix L.”

23
24 Appendix L is not included in the document. This is also requested for
25
26 discovery. Obviously, mitigation has not occurred because of impending

27
28
29 floods, over 2,000 fish (including endangered Salmon) and a herd of
30
31 elk killed without permits, and arsenic and other contaminants
32
33 blowing in the wind. Therefore, in accordance with the document no
34
35 removal of the dams is allowed!

36
37 Items 24 to 30 are Local Stakeholders’ complaints. Item 24 is truthful with
38
39 this statement in it: “Many question whether the Renewal Corporation is
40
41 technically and financially capable of operating the project, removing the
42
43 developments, and restoring the environment.” Plaintiff shares this view

1
2 which is proved in what has transpired since the project began.
3

4
5 The FERC document which Defendants said they are following
6
7 has Items 24-30 below which are very valid concerns of local
8
9 stakeholders who feared what has happened. The FERC commission
10
11 obviously ignored these concerns (a violation on June 28th US Supreme
12
13 Court ruling) and the defendant pseudoscientists performed no mitigation
14
15 whatsoever for these valid concerns. Plaintiff calls D1 and D2
16
17 pseudoscientists because they clearly operate on a scientific belief system
18
19 and not an open-mind scientific system as required by the scientific
20
21 Method.

22
23 Items 24 to 30 Pages 8 to 10. Those filing motions to intervene in
24
25 opposition to the proposal include Siskiyou Water Users, John and Loy
26
27 Beardsmore, Chrissy Reynolds, Jan Hamilton, William Jackson, Phil
28
29 Reynolds, Mark and Lisa Fischer, Bart Kent and Mary Cunningham, and
30
31 Siskiyou County. (With the County Water Users association these total
32
33 around 30 thousand people are against dam removal.

34
35 Numerous commenters also oppose the amendment and transfer
36
37 application. Many question whether the Renewal Corporation is technically
38
39 And financially capable of operating the project, removing the
40
41 developments, and restoring the environment. Siskiyou County suggests
42

1 that the Renewal Corporation is a 'shell' corporation, created for the
2
3 purpose of shielding PacifiCorp, California, and Oregon from
4
5 liability associated with dam removal, with limited resources to address
6
7 costs in excess of those anticipated. Others question the science and
8
9 engineering in support of dam removal, arguing that the developments
10
11 have not caused declines in anadromous fisheries nor have they
12
13 adversely affected water quality. Further, they maintain that dam removal
14
15 will adversely affect the salmon fishery, release toxic sediment
16
17 downstream, expose tribal burial grounds and artifacts, increase flooding,
18
19 reduce downstream flows, affect lake recreation, and reduce property
20
21 values. They also maintain that dam removal will adversely affect
22
23 private wells, the local tax base, access to potable water, water storage for
24
25 fighting fires, drought and irrigation, terrestrial and aquatic wildlife; will
26
27 eliminate a source of renewable power, resulting in an increase in
28
29 electricity costs; and will affect local Document Accession #: 20180315-
30
31 3093 Filed Date: 03/15/2018 Project Nos. 2082-062 and 14803-000 - 9 -
32
33 roadways and traffic and eliminate jobs. Several commenters suggest that
34
35 Feasible alternatives to dam removal exist and have not been sufficiently
36
37 considered. The Kikaceki Land Conservancy and John and Loy
38
39 Beardsmore note that ceremonial and burial sites of the Shasta Nation may
40
41

1 be affected by dam removal. Several commenters raise issues related to
2
3 the physical decommissioning of the four dams, including: Commission
4
5 staff's evaluation of the environmental and socioeconomic effects of the
6
7 proposed surrender; the conditions that the Commission would impose on
8
9 decommissioning to address the potential loss of property values and to
10
11 improve recreation; and the consistency of dam removal with various
12
13 federal statutes, the Klamath Water Compact, and water rights. Siskiyou
14
15 County and several local property owners state that the Commission
16
17 cannot transfer the license to the Renewal Corporation without completing
18
19 an environmental review of the entire river system under the National
20
21 Environmental Policy Act (NEPA) that adequately discusses adverse
22
23 impacts of dam removal and alternatives to dam removal.

24
25 The Siskiyou Water Users believe that dam removal will result in a
26
27 Substantial reduction in flows that will adversely affect salmon and other
28
29 wildlife in the river. The group believes this reduction in flows may also lead
30
31 to increase pressure to retrieve additional water from the Siskiyou Water
32
33 Users for the benefit of those salmon. The Siskiyou Water Users also state
34
35 that the Amended Settlement Agreement has not been approved by the
36
37 California PUC; that the Renewal Corporation's dam removal plans will
38
39 violate NEPA, minimum flow release requirements at Iron Gate dam, and
40
41 the Klamath Water Compact, and will lead to the creation of additional

1
2 water storage projects in the basin along the tributaries of the Sycan,
3
4 Williamson, and Sprague Rivers. The Siskiyou Water Users alternatively
5
6 recommend that the four dams be relicensed to PacifiCorp or
7
8 another entity. Siskiyou County also notes the potential for adverse
9
10 impacts, including: release of contaminated sediment and its impacts to fish
11
12 and aquatic resources; the removal of water storage that aids in drought
13
14 mitigation and wildfire protection in the county; increased risk of flooding;
15
16 lower property values; and lower local government revenues. Siskiyou
17
18 County also questions the research supporting the conclusion that dam
19
20 removal will benefit salmon.

21
22 The Klamath Irrigation District (District) filed comments regarding the
23
24 Amended Settlement Agreement and the related Klamath Power and
25
26 Facilities Agreement and seeks to ensure that these agreements are
27
28 carried out and properly considered by the Commission to determine the
29
30 public interest. Although it supports the Amended Settlement Agreement,
31
32 the District expresses concern with other parties' commitments to
33
34 mitigating the adverse consequences that implementation of the Amended
35
36 Settlement Agreement may have on the District.

37
38 Document Accession #: 20180315-3093 Filed Date: 03/15/2018

39
40 Project Nos. 2082-062 and 14803-000 - 10 -
41

1 The Klamath Water Users Association indicates it has no position on the
2 application, but is extremely interested in the future of Keno Dam, which is
3 a significant asset to its members for irrigation purposes. Klamath County,
4 Oregon states that it does not object to the amendment and transfer,
5 provided that the Renewal Corporation files additional information
6 regarding its ability to fund and operate the project in the event the
7 Commission fails to authorize surrender of the Lower Klamath Project.
8 Klamath County adds that it should not have to absorb the loss of property
9 tax revenue that will result from the transfer of the Lower Klamath Project
10 facilities to the Renewal Corporation, a non-profit, and thus recommends
11 that the Renewal Corporation make a payment to the
12 county in lieu of taxes”

13 Clearly this is a violation of the recent US Supreme Court decision. USC
14 Loper Bright Enterprises v. Raimondo and Relentless, Inc. v. Department of
15 Commerce, which says that Federal Agency's may not cherry pick data.

16 This is retroactive to the case in 2006.

17 Obviously, Defendants didn't do any adequate mitigation and killed some
18 2000 fish, including endangered salmon and a herd of Elk. These assaults
19 on the environment are what this case is all about!

20 Page 13 3rd paragraph. Again, Plaintiffs complaint is not against FERC.

21 This paragraph is false regarding Plaintiffs' complaint.

1
2 Page 14 III Standing. Plaintiffs standing is injury related to past enjoyment
3
4 which Plaintiff and others cannot enjoy in the future. The 3rd paragraph is
5
6 true. These items from the FERC document 24 to 30 have occurred. These
7
8 are not unsubstantiated assertions.

9
10 Page 14, 4th paragraph is not entirely true. The Northwest grid is 924
11
12 megawatts short this year with shortages increasing every year. Yes the
13
14 plaintiff is selling his home. The plaintiff hoped to receive a positive ruling in
15
16 this case and then move back to Klamath Falls with his team and repair the
17
18 mess defendants have created. One team member is a PhD Chemical
19
20 Engineer now working on a project to remove arsenic and chromium 6 from
21
22 silt in Coos Bay for Oregon Department of Fish and Wildlife.
23
24 Wildlife along the river continue to die from this poisoning in the silt along
25
26 the Klamath River.

27
28 Page 15 first three lines are erroneous. Plaintiff already expressed an
29
30 interest. Plaintiff was in Central Point for a weekend exploring homes to
31
32 Purchase. This area is directly affected by the Klamath River dam removal.

33 Page 17 1st Paragraph. "Finally, plaintiff, as a private citizen, does not have
34
35 standing to bring criminal charges. Cf. Schwettmann v. Starns, 2023 WL
36
37 8284064, *2 (E.D. Cal. Nov. 30, 2023) ("[a] citizen does not have authority
38
39 to bring criminal charges, either under state or federal law"); see also
40
41 Wormley v. Hemphill, 2021 WL 11670848, *2 (D. C. Mar. 22, 2021)
(dismissing the pro se plaintiff's claims brought "pursuant to various
sections of Chapter 18 of the U.S. Code [because] none of those criminal
statutes includes an express private right of action").

1 Page 17 1st paragraph is not true; Those cases don't say that. However,
2
3 plaintiff is not bringing charges.

4
5 Plaintiff called the Portland Federal Prosecutor and when they looked into
6
7 the case and saw environmental laws broken they ordered the FBI to
8
9 investigate. That investigation is complete and forwarded to the Federal
10
11 Prosecutor.

12
13 Page 17 the recommendation is based on cherry picked case facts and
14
15 must be vacated.

16
17 If Defendant's improper pleadings were dismissed and plaintiff's pleadings
18
19 we're not dismissed then this document would be completely different. The
20
21 court accepted Defendants' untruthful legal counsel instead plaintiff's
22
23 factual legal statements.

24
25 Page 17 last 3 lines continuing onto page 18. This same "failure to timely
26
27 file" must be applied to Defendants' motion to dismiss and motion for
28
29 jurisdiction. They were both untimely and ECF 18 broke three federal laws.
30
31 Therefore, ESF 18 must be dismissed.

32
33 ECF 61 is an attempt by Defendants to make FERC as a defendant in this
34
35 case. Only exhibit 1 applies to this case.

36
37 Plaintiffs REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF

38
39 REPLY TO DEFENDANTS' MOTION TO DISMISS will have actual case

40
41 facts with proof of defendant's violation of Federal environmental laws. His

1
2 is what this case is about! His is more violations of U.S.C. § 1001, 29 CFR
3
4 § 1606.8 (1), 28 U.S. Code § 4101.

5
6 [Report Environmental Violations](#)
7

8 1. Report Environmental Violations - Submitted

9 Your report has been successfully sent. Your confirmation is below.

10 **Report Environmental Violations -**
11 **Submitted**

12 Thank you for submitting information on a possible environmental violation. The
13 information will be reviewed by EPA enforcement personnel.

14 This notice will be the only response you will receive regarding your submission. Due to the
15 sensitive manner in which enforcement information must be managed by EPA, we cannot
16 provide status reports or updates regarding any submission we receive through the Report
17 Environmental Violations form.

18 Already Pacific Corp has power issues in the region. https://www.kdrv.com/news/top-stories/thousands-without-power-in-grants-pass-talent/article_9d2f9502-3a2f-11ef-aeab-db84a5b25521.html
19
20

21
22 [Back to Report Environmental Violations page](#)

23 **Report Confirmation**

Received	Jun 5, 2024 at 11:26pm EDT
Your Name	Dave White
Your Email	dave@photolithography.net
Your Phone Number	5036087611
Suspected Violator's Name *	Klamath River Renewal Corp

Suspected Violation Location (Address) *	18965 NW Illahe St
Suspected Violation City *	Portland
Suspected Violation State *	California
Suspected Violation ZIP Code *	unk
Responsible Party	Company
Is the suspected violation still occurring?	No
Date of Incident	Jun 5, 2024
Characterized incident as:	
Intention *	Intentional
Violation Method *	Release
Affected Subject(s)	Water
Violation Description *	https://www.siskiyou.news/2024/03/09/anyone-remember-the-1964-klamath-river-flood/ .,There is no debate that the release of about 5-million metric yards of sediment from Iron Gate Dam on January 23, 2024 virtually killed all aquatic lifeforms in the Klamath River all the way to the coast. ,Defendant 2. (D2),Mark Bransom in his capacity as Chief Executive Officer of Klamath River Dam Renewal Corp. ,info@klamathrenewal.org,Defendant 3 (D3),Klamath River Renewal Corporation,2001 Addison Street, Suite 317,Berkeley, CA 94704,Phone: 510-560-5079
File(s) Uploaded	No files uploaded.

1
2
3
4
5

Conclusion

1 1. In conclusion, Plaintiff has more than sufficient legal standing under
2
3 the seven "values" stipulated in Federal Environmental law, even
4
5 apart from adding Anthony Intiso as Plaintiff, who lives six miles from the
6
7 Iron Gate dam and will be directly affected by yearly flooding if the Iron-
8
9 Gate Dam is removed.

10
11 2. Additionally, Plaintiff has clearly demonstrated that this Court has
12
13 jurisdiction over defendants because FERC is *not* a defendant!

14
15 3. Defendants' "Motion for Jurisdiction" shall not be granted FRCP 12(
16
17 b) (6) because the Plaintiff's complaint is legally sufficient, factual, and the
18
19 allegations are true as stated in Federal law.

20
21
22 4. Rather than a motion to dismiss and a motion for jurisdiction, Plaintiff
23 asks for a summary judgement against defendants. The Plaintiff's
24
25 overwhelming complaint is legally sufficient, factual, and the allegations are
26 true as stated in Federal law.

27
28 5. Defendants ECF 18 must be rejected for breaking three federal laws!
29 This dismissal would render Defendants, other Pleading's null and void due
30 to
31
32 untimeliness. ECF is 18 U.S.C. § 1001, 29 CFR § 1606.8 (1), 28 U.S. Code
33 § 4101. This was detailed in ECF 55 filed June 16th, 2024,
34
35 Motion amended_ex_parte_motion_to_reject_dismissal. Plaintiff, therefore,
36 has proven with Federal Law ECF 18 must be denied!

37
38
39 **CERTIFICATE OF SERVICE**

40 I hereby certify that on July 7th, 2024, a true and correct copy of the above
41 document was electronically filed with the Clerk of the Court using

1 CM/ECF. A copy of the document will be served upon interested parties via
2 the Notices of Electronic Filing that are generated by CM/ECF. Additionally,
3 a courtesy copy is being provided as follows:

4
5 Attorneys for Defendants Dave Coffman, Mark Bransom and
6 Klamath River Renewal Corp.
7 Julia E. Markley, OSB No. 000791
8 JMarkley@perkinscoie.com
9 Megan K. Houlihan, OSB No. 161273
10 MHoulihan@perkinscoie.com
11 1120 N.W. Couch Street, Tenth Floor
12 Portland, Oregon 97209-4128
13 Telephone: +1.503.727.2000

14
15 Via hand delivery

16 Via U.S. Mail, 1st Class,
17 Postage Prepaid

18 Via Overnight Delivery

19 Via Facsimile

20 Via Email

21 Via CM/ECF notification

22 to the extent registered DATED: July 7, 2024.

23 By: David White

1

A handwritten signature in black ink, appearing to read "David C. White". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

2

3

David C. White Pro Se. 7/11/2024

4

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF OREGON
3 PORTLAND DIVISION
4

5 **Case 3:24-cv-00755-JR**

6 **David White, Pro Se**

**PLAINTIFFS JUDICIAL
NOTIFICATION**

7
8 18965 NW Illahe St,
9 **Portland OR.**

**United States Magistrate
Judge Jolie A. Russo**

10 dave@salmonprotectiondevice.com
11

12 **vs.**

13
14 **Defendant 1. (D1)**

15 **Dave Coffman, as geoscientist**

16 dcoffman@res.us

17 **Resource Environmental Solutions, (RES)**

18 **Corporate Headquarters – Houston**

19 **6575 West Loop South, Suite 300**

20 **Bellaire, TX 77401**

21 **713.520.5400 x6134**

22 **Defendant 2. (D2)**

23 **Mark Bransom in his capacity as Chief Executive Officer of**
24 **Klamath River Dam Renewal Corp. (KRRC)**

25 info@klamathrenewal.org

26 **Defendant 3 (D3)**

27 **Klamath River Renewal Corporation**

28 **2001 Addison Street, Suite 317**

29 **Berkeley, CA 94704**

30 **Phone: 510-560-5079**
31

32 Legal Counsel for D2 and Klamath River Renewal Corporation (KRRC),
33 (D3)

34 **Julia E. Markley**, Bar No. 000791

35 JMarkley@perkinscoie.com

36 **Megan Kathleen Houlihan**, OSB No. 161273

37 MHoulihan@perkinscoie.com

38 **PERKINS COIE LLP**

39 1120 N.W. Couch Street, Tenth Floor

40 Portland, Oregon 97209-4128

41 Telephone: 503.727.2000

1 Facsimile: 503.727.2222
2 **Laura Zagar**, *Pro Hac Vice Forthcoming*
3 LZagar@perkinscoie.com
4 **PERKINS COIE LLP**
5 505 Howard Street, Suite 1000
6 San Francisco, CA 94105
7 Telephone: 415.954.3230
8 Facsimile: 415.344.7050
9 **Richard Roos-Collins**, *Pro Hac Vice Forthcoming*
10 rrcollins@waterpowerlaw.com
11 Water and Power Law Group PC
12 2140 Shattuck Avenue
13 Suite 801
14 Berkeley, CA 94704
15 Telephone: 510.296.5589
16 *Attorneys for Defendants Mark Bransom and*
17 *Klamath River Renewal Corporation*

18
19 Plaintiff hereby requests the Court take Judicial notice of the following
20 facts;

- 21
22 1) 18 USC 3 accessory after the fact.
23 2) 16 USCA § 1532(19); see also Goble, D. D.; George, S. M.; Mazaika, K.;
24 3) Scott, J. M. & Karl, J. (1999) "Local and national protection of
25 endangered species: An assessment," *Environmental Science & Policy*, 2,
26 pp. 43-59.
27 4) 18 U.S. Code § 41 - Hunting, fishing, trapping; disturbance or injury on
28 wildlife refuges.
29 5) The Endangered Species Act of 1973,
30
31 <https://www.fws.gov/laws/endangered-species-act/section-11>
32
33 6) 18 U.S.C. § 1001 False Statements, Concealment
34
35 7) 29 CFR § 1606.8 (1) – Harassment Has the purpose or effect of creating
36
37 creating an intimidating, hostile or offensive working environment
38
39 8) 28 U.S. Code § 4101 The term "defamation" means any action or other
40
41 proceeding for defamation, libel, slander, or similar claim alleging that

1
2 forms of speech are false, have caused damage to reputation or
3
4 emotional distress, have presented any person in a false light, or have
5
6 resulted in criticism, dishonor, or condemnation of any person.

7
8 9) 33 U.S.C. §1251 et seq. (1972) Clean water act Section 404.

9
10 10) 29 CFR § 1606.8 (1)

11
12 11) 28 U.S. Code § 4101.

13
14 12) USC Loper Bright Enterprises v. Raimondo and Relentless, Inc. v.
15 Department of Commerce.

16
17 13) 29 CFR § 1606.8 (1),

18
19 14) 28 U.S. Code § 4101.

20
21 15) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan
22
23 was Pro Se and made numerous mistakes in filing his complaint resulting
24
25 in the case being dismissed. However, upon appeal, the higher Court
26
27 ruled that the lower Court was in error because they did not give allowance
28
29 for Pagtalunan's lack of legal training.

30
31 **REQUEST FOR JUDICIAL NOTICE**

32 Plaintiff hereby request, under Rule 201 of the Federal Rules of Evidence, that the
33 Court take judicial notice of multiple documents in support of EFC5 preliminary injunction

34
35 1. OPB article of press conference where Defendants admitted killing 2000 fish including
36 endangered salmon. [https://www.opb.org/article/2024/02/18/klamath-
37 reservoir-drawdown-water-quality-discussion/](https://www.opb.org/article/2024/02/18/klamath-reservoir-drawdown-water-quality-discussion/)

38 "It was always expected that these species would not persist," said Dave Coffman, geoscientist
39 for Resource Environmental Solutions, or RES, during the press conference." Dave Coffman is
40 D1. Read the whole article please!

41

1 2. Plaintiff set up a table at Holiday Supermarket in February 2024 and handed out 500
2 documents which showed the proper solution was to dredge behind the Klamath River dams and
3 install fish ladders. Only 1 person objected.

4
5 3. “There is no debate that the release of about 5-million metric yards of
6
7 sediment from Iron Gate Dam on January 23, 2024, killed virtually all
8
9 aquatic lifeforms in the Klamath River all the way to the coast.

10
11 <https://www.siskiyou.news/2024/03/09/anyone-remember-the-1964-klamath-river-flood/>

12
13 4. Siskiyou County votes to keep the dams.

14 <https://www.siskiyoucountywaterusersassociation.org/klamath-dams-facts>

15
16
17 5. Siskiyou County Board votes to keep the dams.

18 [https://www.kdrv.com/news/waterwatch/siskiyou-county-board-of-supervisors-votes-in-favor-](https://www.kdrv.com/news/waterwatch/siskiyou-county-board-of-supervisors-votes-in-favor-of-state-of-emergency-declaration/article_9528801c-ebc4-11ee-bf91-fb22b237e6f8.html)
19 [of-state-of-emergency-declaration/article_9528801c-ebc4-11ee-bf91-fb22b237e6f8.html](https://www.kdrv.com/news/waterwatch/siskiyou-county-board-of-supervisors-votes-in-favor-of-state-of-emergency-declaration/article_9528801c-ebc4-11ee-bf91-fb22b237e6f8.html)

20
21 6. [https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf)
22 [Contaminants-in-Sediments.pdf](https://salmonprotectiondevive.com/CDM_2011_0119_Screening-Level-Evaluation-of-Contaminants-in-Sediments.pdf) Arsenic and Chromium 6 in the sediment behind the dams.

23 24 **DISCUSSION**

25
26 Plaintiff requested judicial notice of 5 documents for one main purpose.

27
28 First, however, Plaintiff concedes Defendants did obtain a section 404
29 permit. The Corp of Engineers did not record it in their files or on their map
30 and thus could not confirm its existence when plaintiff queried them.

31
32 Second, Plaintiff in items 1-7 details that this case is in reference to
33 environmental damage perpetrated by Defendants.

- 34
35 1) In the Oregon Public Broadcast website link defendants confessed to
36 killing 2000 fish, including endangered Salmon and elk.
- 37
38 2) ECF 1 Page 3 lines 15 to 23 state that “Plaintiff went to Klamath Falls
39 Oregon and had a table at the only supermarket for three days and
40 handed out 500 documents which show we need to dredge behind
41 the dams to get the fish ladders working again. Everyone agreed
42 with it and only 1 person objected to it. Therefore, 500 to 1 oppose
43 removing the dams.”
- 44

1 3) "There is no debate that the release of about 5-million metric yards of
2 sediment from Iron Gate Dam on January 23, 2024, killed virtually all
3 aquatic lifeforms in the Klamath River all the way to the coast."

4 <https://www.siskiyou.news/2024/03/09/anyone-remember-the-1964-klamath-river-flood/>
5

6
7 4) Siskiyou County voted 78.8% to keep the Klamath river dams to
8 avoid environmental and human damage.

9
10 5) Siskiyou County Board voted to keep the Klamath river dams to avoid
11 environmental and human damage.

12
13 6) A Government chemistry test of silt behind each dam in the Klamath
14 basin in 2011. Chapter three tables outline arsenic and chromium 6 in
15 the silt.

16
17 7) Physician public testimony in 2017 California Water board confirmed
18 levels of poisonous substance in silt harmful to human and animal
19 life, which was ignored.
20

21 The facts above are environmental issues of grave concern to plaintiff and
22 Klamath Basin dwellers.

23 24 25 **Conclusion**

26
27 The public record filed as Items 1 and 2 meet the requirements of Rule
28
29 201(b)(2) of the Federal Rules of Evidence. Plaintiff respectfully
30
31 requests that the Court grant this request for judicial notice.

32
33 Additionally, Plaintiff has clearly demonstrated that this Court does have
34
35 jurisdiction over this case because FERC is *not* a defendant!

36 37 **CERTIFICATE OF SERVICE**

38 I hereby certify that on July 7th, 2024, a true and correct copy of the above
39 document was electronically filed with the Clerk of the Court using

1 CM/ECF. A copy of the document will be served upon interested parties via
2 the Notices of Electronic Filing that are generated by CM/ECF. Additionally,
3 a courtesy copy is being provided as follows:

4

5 Attorneys for Defendants Dave Coffman, Mark Bransom and
6 Klamath River Renewal Corp.

7 Julia E. Markley, OSB No. 000791

8 JMarkley@perkinscoie.com

9 Megan K. Houlihan, OSB No. 161273

10 MHoulihan@perkinscoie.com

11 1120 N.W. Couch Street, Tenth Floor

12 Portland, Oregon 97209-4128

13 Telephone: +1.503.727.2000

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15 Via hand delivery

16 Via U.S. Mail, 1st Class,

17 Postage Prepaid

18 Via Overnight Delivery

19 Via Facsimile

20 Via Email

21 Via CM/ECF notification

22 to the extent registered DATED: July 7, 2024.

23 By: David White

1

A handwritten signature in black ink, appearing to read "David C. White". The signature is written in a cursive style with a large initial "D" and a long horizontal stroke at the end.

2

3

David C. White Pro Se. 7/11/2024

4

From: [Lindsey Hutchison](#)
To: [3293 Hb * WRD](#)
Subject: Re: Willamette Riverkeeper Comments
Date: Thursday, August 1, 2024 4:58:42 PM
Attachments: [WRK - Best Practices in Community Engagement - Water Projects 08.01.2024 FINAL.pdf](#)

You don't often get email from lindsey@willametteriverkeeper.org. [Learn why this is important](#)

Hello,

My apologies but it appears I did not send you the final version of our comments. Please see our final comments attached.

Lindsey

On Thu, Aug 1, 2024 at 4:35 PM Lindsey Hutchison <lindsey@willametteriverkeeper.org> wrote:

Hello,

Please see Willamette Riverkeeper's comments, attached.

Lindsey Hutchison, Staff Attorney
Willamette Riverkeeper
Email: lindsey@willametteriverkeeper.org
(she/her/hers)

--

Lindsey Hutchison, Staff Attorney
Willamette Riverkeeper
Email: lindsey@willametteriverkeeper.org
(she/her/hers)



WaterWatch of Oregon

Protecting Natural Flows In Oregon Rivers

July 30, 2024

Oregon Water Resources Department
Attn: Interagency Review Team Best Practices on Community Engagement
725 Summer Street NE, Ste A
Salem, OR 97301
Email: engagement.best.practices@water.oregon.gov

RE: Comments, Community Engagement Best Practices

Dear Interagency Review Team,

Thank you for the opportunity to comment on the draft Best Practices for Community Engagement around water projects. We offer the following brief comments and/or questions (both general and specific).

General comments/questions:

- There is no requirement that the views of the community that emerge from these engagement efforts be considered or reflected in the project for which community engagement funds were sought. For example, if a proponent of a new stream spanning dam receives funding under this program for community engagement and the community engagement results in a recommendation that the dam be tabled and conservation be employed first, the project proponent doesn't actually have to consider the community input.
- The document does not clearly articulate that there will be state agency oversight by the agency providing the funding for these efforts. Moreover, to the extent funding recipients must abide by Best Practices as articulated in statute, the Best Practices themselves should be reworked to include accountability measures. As the Best Practices currently read, it appears that decisions are left largely to those applying for and receiving the grants for community engagement efforts (setting the table, establishing goals, balance, etc.); this could lead to the use of this tool by project proponents (and/or their consultants) to shape input/outcomes to their advantage. We do not believe this is consistent with the intent of the statute.
- It is unclear how this community engagement process interplays with Place Based Planning. Without some sort of explanation, results from this work could potentially upend consensus decisions by communities in place based planning.

Specific comments/questions:

Pg. 3, Oregonian's Connection to Water:

- Generally, we would suggest incorporating a paragraph that describes the value of water to Oregonians and what is impacted by water decisions (ecosystems, cultures, economies)

WaterWatch of Oregon
Main Office: 213 SW Ash St. Suite 208 Portland, OR 97204
Southern Oregon Office: PO Box 261, Ashland, OR, 97520

www.waterwatch.org
Main Office: 503.295.4039
S. OR Office: 541.708.0048

- Paragraph 3: Please remove the word “local” from “local communities” and “local knowledge”. This narrowing is not supported by statute. The governing statute directives are not connected to “local communities” but rather “local organizations”. This term is defined broadly to include tribes, NGOs, local governments and others that “operate” in an area affected by a water project. Operate is a broad concept and generally includes, for example, statewide and national groups that work on water issues in a project area.
- Paragraph 4: Please change “water planning” to “water project planning” to be consistent with the statute. This clarification will also help remove confusion as to the interplay with this with other planning efforts, such as state placed based planning efforts.

Pg. 4, Statutory Explanation:

- Paragraph 2: This paragraph asserts that the Best Practices for Community Engagement come into play when agencies “ support water projects”. This is not entirely accurate. The statute is discretionary as to agencies, meaning that agencies have a choice as to whether to provide funding for the development of community engagement plans. There is no mandate. That said, if an agency does choose to provide funding for community engagement, the statute then allows local governments or local organizations to apply for funding for community engagement if they so choose. Long story short, the statute does not require agencies to fund or require the development of public engagement plans simply because they are an agency that distributes grant funds to support water projects.
- Key Terms:
 - Water projects: please remove the word “actions” so as to mimic the definition in statute
 - Water project support: please add “to an eligible recipient” to the end of the sentence so as to mimic the definition in statute.
 - Please add the statutory definition of “local organization”. This term is critical to the community engagement process outlined in statute. It is a broad and inclusive term. Including the definition will make clear that these efforts are not limited to “local communities” but are intended to include the many stakeholders that might be affected by a project.

Page 5, Exploring Community Engagement for Water Projects

- Paragraph 1: Please remove the first sentence, as it is not entirely accurate. A project such as a new dam could have huge effects on ecosystems and recreational and/or cultural use of free flowing rivers, but these instream values/uses are not necessarily “projects”. This sentence unnecessarily limits the scope of impacts.
- Paragraph 2: The use of the word “must” is a bit stronger than the statutory directive. The concern is how the use of “must” interplays with “suitable access to decision-making processes for water” as some might interpret this to mean the development of new processes rather than developing a plan to empowering communities to better engage in existing processes. And/or maybe this is a phrase that should be discussed in the rulemaking.

Page 9: Applying Best Practices in Water Projects

- Paragraph 2: I would suggest rephrasing this paragraph in whole so it better reflects the directives of statute.
- 10 Best Practices, general comments:
 - If the state really wants the funded engagement processes to result in authentic best practices for inclusive, balanced and meaningful engagement we would suggest development of clear sideboards as well as provisions for agency oversight. As is, the Best Practices are somewhat vague and appear largely discretionary. Long story short, we would suggest that the best practices be reworked so that they have teeth. For example, Best Practice #1 calls for the identifying of people who will benefit and/or will be harmed by the project, but it doesn't actually require that all these voices be included at the table.
 - The governing statute grants agencies the ability to condition grants to ensure participation, structure and oversight. We urge the interagency team to incorporate the statutory directives into the Best Practices.

Conclusion: While we appreciate the work to date, we would urge the interagency team to add a bit more teeth to this document. If state funds are going to be disbursed for community engagement efforts, it should be done in a manner that will truly lift the voices of disadvantaged communities.

Thank you for your consideration of our comments.

Sincerely,



Kimberley Priestley
Senior Policy Analyst
WaterWatch of Oregon



1210 Center St.
Oregon City, OR
97045

August 1, 2024

Submitted via email to engagement.best.practices@water.oregon.gov

These comments are provided on behalf of Willamette Riverkeeper on OWRD's best practices for community engagement around water projects. As a 501(c)(3) nonprofit that works throughout the Willamette River Basin on a variety of water projects, including numerous watershed enhancement efforts, and works to engage the community in these efforts, we appreciate the multi-agency effort to work with communities, especially those underrepresented, in decisions related to water projects.

While the draft best practices include many important actions, we believe that the list could go a bit further. First, we believe that the best practices should include engaging with local conservation organizations with relevant missions that already work with local communities and can assist state agencies with community engagement and are already set up to do this work while nurturing these relationships. For example, Willamette Riverkeeper partners with local organizations to bring different communities together to experience hands-on volunteer stewardship, educational opportunities and recreation activities on our river. During some of our watershed enhancement volunteer opportunities, community members learn about aquatic invasive species, pollution, and other human impacts that degrade our river habitat. Participants also learn how to recreate safely and responsibly on the river. These events allow local community members to learn more about the waterways in their immediate area and how to make a difference in specific locations. Willamette Riverkeeper also regularly partners with different conservation organizations and state agencies and during these partnerships we show the community how collaboration is key to protect and enhance our watershed.

As each organization and agency has a different specific mission or a variety of goals they are trying to reach, working together on a project allows each goal to be touched on and a vast array of knowledge to be passed on to the public. For example, our restoration manager, Vanessa Youngblood, has recently partnered with ODFW for our Paddle & Pull invasive species removal events. This partnership allows Willamette Riverkeeper to increase our knowledge about invasive crayfish and animal identification, while ODFW increases internal knowledge on aquatic plants, both native and invasive. This knowledge share helps to inform key treatment strategies moving forward.

In another example, our River Guardians Program partners directly with land managers at all agency levels to implement river cleanup efforts, while pulling in more indirect resources from other community nonprofits that complement the program through intersecting elements of our mission addressing both social and environmental concerns. Understanding the many layers of water quality issues, and how to address the problem at various levels based on a hands-on, ground level approach, helps everyone involved to understand the need for a collaborative based approach, and how each participating organization can lend resources toward a long-term, sustainable solution, even while implementing more regular, temporary efforts that keep communities engaged with tangible short-term benefits. Additionally, spreading the cost of long-term solutions across more partnerships provides a less daunting financial commitment from



1210 Center St.
Oregon City, OR
97045

individual organizations, and ensures a vested commitment to continue moving the program forward (in our case, volunteer river cleanups in populated greenway areas).

Our waterways are for all. These partnerships and widespread community involvement allows for increased expertise, capacity, funding, and general education to support safe and enjoyable river recreation access, healthy riparian habitats and improved water quality for local communities.

For Willamette Riverkeeper, **Best Practice #1 includes** identifying interested parties and conservation groups with a more local focus should be considered interested parties and should be included in water projects and their expertise and perspectives should be utilized in water project planning and community engagement. Additionally, as it can be difficult to identify all interested parties, as noted in the list, agencies should consider using public notices and potentially local mailers to reach out to interested parties with enough advance notice to respond adequately.

For **Best Practice #2**, OWRD notes that negative impacts should be mitigated as much as possible prior to starting the water project. We fully agree with this. However, we also believe that agencies need to go further and identify and define all possible and actual negative impacts to the community as holistically as possible to ensure a deeper understanding of project goals, benefits and any other necessary considerations by the both the coordinating agency, and the community at large.

This leads to our suggestion for **Best Practice #8**, which is to ensure that each project maintains a public communications platform (such as a website, dedicated email list or social media channel) updated regularly (before, during, and after) so that the community can understand what is happening and at what stage a water project is operating. Transparency is vital to ensure community engagement and to prevent any mitigatable negative impacts that the communities may have a better understanding of. It is our experience that communities want to engage with local water projects, especially those that focus on local issues, such as those in OWRD's placed-based water resources planning effort. Because the Willamette watershed runs through several urban, rural, agricultural, and industrial communities we have learned that community engagement can differ greatly even within one river system, and we applaud OWRD and the other agencies that worked together to address the need to localize community engagement efforts as there is no one size fits all option. We encourage agencies to utilize the knowledge that local conservation organizations provide and to engage communities in as many ways as possible, including comment periods, open houses, community meetings, and similar opportunities.

Willamette Riverkeeper supports improving access to best practices that recognize and connect a diversity of water users. When identifying interested parties, it is important to note that community interests may not align and may at times be at odds with one another. An additional Best Practice to be included should be educating different water users about one another and their needs. For example, a jet boat user may believe slowing down when passing smaller vessels (like canoe or kayaks) is the best option, but really that action creates a larger wake for those



1210 Center St.
Oregon City, OR
97045

small boats to deal with. There should also be more education on how to properly recreate in the river, such as when crossing ferry lines or approaching significant hazards in navigable channels. Water projects may require different actions, and community education should be as broad-reaching as possible.

Thank you for the opportunity to comment on the Best Practices for Community Engagement for Water Projects. Willamette Riverkeeper looks forward to continuing our work with state agencies protecting and restoring our waterways. If you have any questions, please reach out.

Sincerely,

Bob Sallinger
Executive Director
bob@willametteriverkeeper.org

Michelle Emmons
Deputy Director
michelle@willametteriverkeeper.org

Vanessa Youngblood
Restoration Manager
vanessa@willametteriverkeeper.org

REGULA-WHITEFIELD Charlotte M * WRD

From: Michael Karnosh <Michael.Karnosh@grandronde.org>
Sent: Monday, July 29, 2024 2:08 PM
To: 3293 Hb * WRD
Cc: MARTIN Stacia
Subject: CTGR comments on "Best Practices in Community Engagement around Water Projects"

Follow Up Flag: Follow up
Flag Status: Completed

You don't often get email from michael.karnosh@grandronde.org. [Learn why this is important](#)

Good Afternoon,

Staff from the Confederated Tribes of the Grand Ronde Community of Oregon (CTGR or Tribe) have reviewed the document, and submit the following comments:

- The Tribe appreciates the distinct call out on p. 5 of the special relationship between the State and federally-recognized tribes; this is an important distinction within the context of this community engagement document. That said, we would appreciate additional specificity that while OWRD does interact and engage with individual tribal members as part of their broader communities, Tribal Nations as sovereigns have a unique status that is different from interested community members. Sovereign nations engage with OWRD (and the State of Oregon) through government-to-government consultation, and the document should add clarifying language reflecting this.
- Regarding the callout to "invite tribal communities in Oregon to participate...acknowledging their preferences and capacity for collaboration" on p. 10, we would ask that the same clarifying language mentioned above be added. Tribal Nations as sovereigns participate as government partners, rather than as interested community members. We would also advocate that any direct OWRD engagement with the Tribe around water projects come first in time, before outreach via non-governmental organizations, as a courtesy to a fellow sovereign.
- Is OWRD providing more detailed, specific guidance around Tribal engagement? CTGR would definitely appreciate such a guidance document as it appears to be needed, and would be willing to provide input.

Thank you for this opportunity to comment. Please feel free to contact me directly with any questions or follow up.

Hayu-masi,
Michael

Michael Karnosh
Ceded Lands Manager
Confederated Tribes of Grand Ronde
M: 971-237-7200
O: 503-879-2383

From: [Chris Gannon](#)
To: [3293 Hb * WRD](#)
Subject: Public comments - Chris Gannon
Date: Monday, July 1, 2024 12:17:39 PM
Attachments: [OWRD Community Engagement Plan.2024.pdf](#)

You don't often get email from chris@crwc.info. [Learn why this is important](#)

Greetings,

Attached are my comments on this topic.

I do not support compensating people to participate in a public process that allows them to an opportunity to express their thoughts and represent their particular interests. Public funds should not be used in this way.

Thank you for considering my comments above and in the attachment,

Chris

From: [Rep Levy B](#)
To: [Donna Beverage; 3293 Hb * WRD](#)
Cc: [CROWELL Courtney * GOV](#)
Subject: Re: Comments on Community Engagement
Date: Monday, July 29, 2024 1:59:59 PM
Importance: High

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Donna thank you for the email. I totally agree with you. Your placed based water project is a shining example of what should be considered. When the new director was hired for OWRD, he was tasked with being more responsive to those end users, and more creative as well as get the back log cleared up.

Beginning with a top down change in the department's mentality is only going to make water more accessible to all.

Thank you again Donna for bringing this to our attention. Bobby



Bobby Levy

Oregon House of Representatives
House District 58
(O) (503) 986-1458
900 Court Street, Office H-375 | Salem OR, 97301
www.oregonlegislature.gov/levy

*~Diverse Cultures and Economies Working in Harmony
With Nature~*

Please note that all emails sent to and from this email address are shared among Representative Levy and her staff, and may be subject to disclosure under Oregon public records laws.

From: Donna Beverage <dbeverage@union-county.org>
Date: Monday, July 29, 2024 at 10:09 AM
To: engagement.best.practices@water.oregon.gov
<engagement.best.practices@water.oregon.gov>
Cc: CROWELL Courtney * GOV <Courtney.CROWELL@oregon.gov>
Subject: Comments on Community Engagement

CAUTION: This email originated from outside the Legislature. Use caution clicking any links or attachments.

I appreciate the state funding Place-based planning. We were one of the 4 pilot projects. We are now in the feasibility stage and have identified 4 projects for more study.

Some State staff are against any project unless it only benefits fish and that has been a huge stumbling block. Any concern should also have a possible solution to that problem and a way to move forward and become successful in implementation.

I would ask that staff at the State agencies be more solution oriented instead of looking at potential barriers. If there is a barrier, the rule or language needs to be stated. Too much red tape and not enough data to back up decisions. ONE SIZE DOES NOT FIT ALL when making water rules for Oregon.

Thank you for your time.

Donna
Commissioner Beverage
Union County
1106 K Ave. La Grande, OR 97850
541-963-1001 cell 541-786-1492

Home of the Beautiful, Historic Grande Ronde Valley!!

From: [Dana Kurtz](#)
To: [3293 Hb * WRD](#)
Subject: RE: Opportunity to Comment on Best Practices for Community Engagement around Water Projects
Date: Monday, July 1, 2024 8:15:44 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

You don't often get email from dkurtz@andersonperry.com. [Learn why this is important](#)

Hey,

I appreciate this document – this is a helpful resource!

Here are a few suggestions –

1. Appendix with resources. For example –people may not know where to find the list of appropriate tribes to contact. You could like the LCIS email address to get assistance etc. Also, a list of specific communities and contact information would be a great practical resource – ie: who OWRD thinks is included in the definition of disproportionately impacted communities – this can help outreach efforts.
2. Appendix with funding sources – lots of grants for community engagement are available, but people may not know they are available.
3. Developing a written plan or statement of work may be helpful to meet these goals and get buy in from stakeholders. Primary contact person and back up contact person to stay in the loop to help manage transitions.

Thanks,



ENGINEERING • SURVEYING • NATURAL RESOURCES • CULTURAL RESOURCES • GIS

Dana Kurtz, AICP | *Senior Environmental Scientist*
[541-963-8309](tel:541-963-8309) office | [509-953-1804](tel:509-953-1804) cell/text



From: Oregon Water Resources Department <OWRD@public.govdelivery.com>
Sent: Friday, June 28, 2024 5:16 PM
To: Dana Kurtz <dkurtz@andersonperry.com>

Subject: Opportunity to Comment on Best Practices for Community Engagement around Water Projects

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Oregon Water Resources Department



Opportunity to Comment on Best Practices for Community Engagement around Water Projects

The Oregon Water Resources Department, in partnership with a multi-agency team, has been working collaboratively with communities across Oregon to create a best practices resource for engaging communities when developing water projects.

As part of Oregon Revised Statutes (ORS) 541.551, the named state agencies may choose to make support available for the creation of community engagement plans through designated programs. If agencies provide support for the development of community engagement plans, then Best Practices for Community Engagement must be followed. The agencies charged with developing these best practices recognize that each water project differs in scale and scope. As such, community engagement will also vary and not all best practices may apply to each water project.

The draft document titled, Best Practices in Community Engagement around Water Projects, can be found online at [Oregon Water Resources Department's funding opportunities webpage](#).

HOW TO SHARE COMMENTS:

The agencies co-leading this process are excited to collaborate with partners to refine the draft Best Practices guidance for community engagement around water projects.

Comments will be accepted through 5 p.m. on August 1, 2024. Comments should be submitted via email to engagement.best.practices@water.oregon.gov. For more information about how this document was created, check out the [March 14, 2024 open house](#) or contact Charlotte Regula-Whitefield directly using the contact information noted below.

All comments received will be reviewed by the interagency team consisting of the Oregon Water Resources Department (OWRD), the Oregon Health Authority (OHA), Oregon Business Development Department (OBDD), Oregon Department of Fish and Wildlife (ODFW), Oregon Department of Environmental Quality (DEQ), and Oregon Watershed Enhancement Board (OWEB). The agencies will work together to ensure feedback is incorporated into the final document to provide the most meaningful set of best practices for community engagement around water projects.

For more information, please contact:

Charlotte Regula-Whitefield

Community Engagement Coordinator, Oregon Water Resources Department

Call: 971-375-3481 | Email: Charlotte.M.REGULA-WHITEFIELD@water.oregon.gov

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If you have questions for the Oregon Water Resources Department directly, please email wrd_dl_customerservice@water.oregon.gov or call 503-986-0900.

From: [Roselyn Poton](#)
To: [3293 Hb * WRD](#)
Cc: [Cheyenne Holliday](#); [Candace Avalos](#)
Subject: RE: Public Comment for Best Practices in Community Engagement Around Water Projects HB3293(2021)
Date: Thursday, August 1, 2024 1:14:54 PM
Attachments: [image003.png](#)
[HB3293\(2021\) BP Community Engagement 2024 - Public Comment Letter.pdf](#)

You don't often get email from roselynpoton@verdenw.org. [Learn why this is important](#)

Greetings,

Thank you for the opportunity for Verde to provide comments on HB3293(2021). Attached is our public comment letter. Please reach out if you have any questions.

Thank you again,
Rose

Roselyn Poton (*she/her*)

Water Justice Coordinator, [Verde](#)
4145 NE Cully Blvd, Portland, OR 97218
Follow Us: [Facebook](#) | [Twitter](#) | [Instagram](#)



Empower change and make a lasting impact this season – consider Verde for your meaningful end-of-year giving! To make a contribution, please visit: <https://www.verdenw.org/donate>

Programs and activities that Verde works to support and help Water include:

[Water Justice Leadership Institute \(WJLI\)](#) launched in March 2023 and a part of the Oregon Water Futures (OWF) Collaborative.

[Oregon Water Futures Collaborative](#) a collaboration between water and environmental justice interests, academic institutions, and frontline communities as defined in [Senate Concurrent Resolution 17 \(SCR-17\)](#) and includes Black, Native American, Indigenous and People of Color communities and immigrant, rural and low-income communities. Through a water justice lens, we aim to impact how the future of water in Oregon is imagined through storytelling, capacity building, relationship building, policymaking, and community-centered advocacy at the state and local level. [Water Equity and Resilience \(WECR\) Caucus](#) national network of frontline leaders and allies advancing policies and community solutions at the intersection of water, climate, and justice. The Caucus is anchored by [PolicyLink](#) and governed by the WECR Steering Committee, which Verde is a part of. Learn more about [members](#), [structure](#), and what the [Causus is working on](#).



4145 NE Cully Blvd., Portland, OR, 97630 | 503-290-8570

RE: Public Comment for Best Practices for Community Engagement Regarding Water Projects House Bill 3293 (2021; ORS 541.551)

Verde thanks you for the opportunity to provide comments on House Bill 3293 (2021; ORS 541.551) we believe that meaningfully engaging communities in water planning and decision making processes is critical to ensuring regenerative, balanced, and equitable relationships with water, agencies, projects, and communities that ensures water protection and health for present and future generations. Verde works with state agencies, utilities, and community members throughout Oregon to understand funding mechanisms for water infrastructure projects and better understand how community members can be more meaningfully engaged in water infrastructure projects. We also work with community members across the state to uplift perspectives and stories of BIPOC, low-income, and rural Oregonians to enact change for water justice at the state legislature.

Water doesn't recognize human made property lines or boundaries drawn on a map. Water is inherently interconnected with all that rely on them. How water is treated and cared for impacts the health and availability of water throughout the state. It is important that decision-makers and all those involved in water planning recognize the significance of water's relationships with industries, communities, and the environment and engage communities to better understand the interconnectedness of water.

Drawing from the six water justice principles outlined in the [Oregon Water Futures Water Justice Policy Action Framework](#), we recommend the following actions in implementing HB3293(2021):

1. **Partner with local community-based organizations to support meaningful engagement and ensure that water projects are driven by community priorities, expertise, and benefits the community.**

Local community-based organizations have existing relationships with community members, know their communities best, and are in the best position to facilitate community engagement. Many community-based organizations are already working with city governments and utilities to lead community engagement on various projects, including infrastructure projects that directly impact Oregonians.

We have learned that most community members do not trust agencies and developers to have their best interest in mind when planning and implementing water projects. Lack of

trust and relationship often deter community members from engaging in decision-making and planning processes involving water. Having a trusted local community-based organization can help facilitate connections and relationships to encourage community members to participate in shaping water projects.

Partnerships with community-based organizations are important to move beyond transactional community outreach, and staff must be resourced for their role collaborating on project approach, co-facilitating, and leading outreach. Funding is also needed to increase accessibility by providing childcare and food at in-person events, translation and transcription, and honoraria for participants.

Providing resources to local community-based organizations to support community engagement not only puts money into the hands of frontline communities, offering an economic benefit, but it will also help build trust and ensure adequate engagement.

2. Offer education, training, and tools on community engagement to encourage use of best practices when proposing and implementing water projects.

To encourage the use of best practices in community engagement for water projects, it is essential to provide education, training, and tools tailored to different stakeholders involved in these projects. We would like to see education, training, and resources provided to project applicants. We have heard from frontline communities that they want to be involved in shaping water projects that have the potential to impact them. Providing education and training will help build community members confidence and promote meaningful engagement with water project providers and applicants.

3. Offer incentives to increase engagement of frontline communities and encourage meaningful community engagement and benefits to communities most impacted by water injustices and projects and decisions made about water.

Engaging frontline communities in water-related projects can be enhanced through financial incentives like stipends and grant programs, and education and training initiatives that promote awareness and understanding of water projects. Providing transparent communication and regular updates ensures accessible information. Establishing community advisory boards and leadership opportunities fosters ownership and influence. Highlighting health benefits, creating job opportunities, and celebrating cultural contributions further incentivize participation. Long-term partnerships, continuous feedback, and legal support can help sustain engagement and ensure accountability, leading to more equitable and effective outcomes.

On the other hand, we would like to see incentives, rebates, and support given to project applicants who include community engagement in their scope of work. This approach will not only encourage project applicants to do community engagement, but it will reward them in doing so.

4. **Ensure there is an open line of communication and follow-up before, during, and after water projects to promote flexibility and responsiveness to community needs and a changing climate.**

Create a communication process that is inclusive and easy for community members to access and engage with. Whether in person or virtual, prioritizing approaches that make it accessible for as many people as possible to participate is key to centering equity. This means ensuring information is available in multiple languages, having an interpreter readily available, and creating a dedicated channel for communication between communities, providers of water projects, and water project applicants.

5. **Ensure agencies are coordinated and aligned in order to promote and encourage community engagement efforts that are flexible and responsive to climate change, water issues and the community, reduce redundancy, and prevent engagement fatigue.**

We have already heard from multiple agencies that this process is not a priority and they are planning to take months to years to begin rule advisory committees or implementation. We believe that Oregonians' voices are a necessary factor in how state dollars are used especially when it's related to our livability and health. We recommend an implementation start date and set of metrics for compliance and/or check-ins that can be made available for transparency and review.

Additionally, we encourage a coordination plan between the agencies for the implementation phase of this policy. Although we know that state agencies were in coordination with drafting the Community Engagement Best Practices, we are concerned with the absence of coordination and communication during the implementation of HB 3293. A coordination plan will create a pathway for information sharing and relieve the burden of project applicants and community members.

Verde thanks you for the opportunity to engage in the rule advisory committee and public comment period for HB 3293. We look forward to the next phase of implementation of these best practices. As the Community Engagement Best Practices continues to evolve, we are interested in having conversations and open the invitation to engage in future.

Cheyenne Holliday
Advocacy Manager
Verde

Rose Poton
Water Justice Coordinator
Verde

From: [James Peterson](#)
To: [3293 Hb * WRD](#)
Subject: this state has gone a long way.
Date: Wednesday, July 3, 2024 5:04:14 PM

You don't often get email from jjoePETE@aol.com. [Learn why this is important](#)

Stream quality for fisheries purposes depend on the natural process behind Riparian Zones and Beaver Dams. Farmers and grazers do not like Riparian zones because access to any creek must be restricted. Fences. Livestock in their numbers muddy the waters, tear down the creek banks and put entirely too much feces into the waters. We can't get around fences. We can build gravity fed watering stations which will preclude the need for livestock in the water. This will improve water quality and the shade provided by the Riparian Zones will make it much easier for fish to live and improve the mortality of the migrating fish. Beaver Dams provide storage of water late in the year and the biology associated to the body of water is amazing. A paradise for fisheries. The problem with Beaver is they sometimes build Dams in areas that are not good for farming. We can build rudimentary Dams in areas we want them and turn Beaver loose to finish the jobs. If you make things easy for them, well they are mammals.

My temperature studies conclusions are that at least in the Coast Range you mandate riparian zones to the sea.

From: [Gary Young](#)
To: [3293 Hb * WRD](#)
Subject: Water Protection, Enhancement, Regeneration, Resilience
Date: Friday, July 12, 2024 1:21:42 PM

You don't often get email from gyoung@bluemtnranch.com. [Learn why this is important](#)

Start by acknowledging no real difference between “ground water” and “surface water”. The sooner we do the better off we will be. If they are not connected then the water table is too low and raising should be the goal.

John Wesley Powell suggested all political boundaries should be based on watersheds.

I believe we need policies and rules that encourage aquifer recharge and large natural filtration basins/floodplains in any available area, beginning at and prioritizing the higher elevations of our watersheds, leaving the maximum opportunities for more retention at each successively lower level.

Gravity and erosion will tend toward rapid and concentrated drainage of watersheds. Thankfully beaver and buffalo helped brake this process until they were considered more valuable skinned. Hooved grazing animals, constantly moving, herd trained by predators or otherwise, leave in their wake a lightly tilled and manured stubble, not excessively harvested, ideal for enhancing grass production and cover. Man-made means for spreading, retention and recharge are merely modern extension of the beaver’s eco-knowledge.

Artificial waterway channelization, for various purposes of convenience, has been way overdone. Compared to the 19th century, we have very little healthy functioning floodplain where waterways are constantly changing course, spreading and slowing the water, recharging our aquifers.

I believe we need policies and rules that tend against rapid channelization and encourage the slowing and spreading of early spring thaw, as high in watersheds as possible. We can no longer depend on or expect a slow melt off of winter snow pack.

<https://www.bluemtnranch.com/water-concerns>

Book recommendation: “Call of the Reed Warbler” by Charles Massy

Is it too late to regenerate the earth? Call of the Reed Warbler shows the way forward for the future of our food supply, our Australian landscape and our planet. This ground-breaking book will change the way we think of, farm and grow food. Author and radical farmer Charles Massy explores transformative and regenerative agriculture and the vital connection between our soil and our health. It is a story of how a grassroots revolution – a true underground insurgency – can save the planet, help turn climate change around, and build healthy people and healthy communities, pivoting significantly on our relationship with growing and consuming food.

Using his personal experience as a touchstone – from an unknowing, chemical-using farmer with dead soils to a radical ecologist farmer carefully regenerating a 2000-hectare property to a state of natural health – Massy tells the real story behind industrial agriculture and the global profit-obsessed corporations driving it. He shows – through evocative stories – how innovative farmers are finding a new way and interweaves his own local landscape, its seasons and biological richness.

At stake is not only a revolution in human health and our communities but the very survival of the planet. For farmer, backyard gardener, food buyer, health worker, policy maker and public leader alike, Call of the Reed Warbler offers a tangible path forward for the future of our food supply, our Australian landscape and our earth. It comprises a powerful and moving paean of hope.

Gary Young

Box 13

Paulina, Oregon 97751

541-279-7572

Sent from my iPad

From: [Gary Young](#)
To: [3293 Hb * WRD](#)
Subject: Water Protection, Enhancement, Regeneration, Resilience
Date: Monday, July 22, 2024 5:11:57 AM

You don't often get email from gyoung@bluemtnranch.com. [Learn why this is important](#)

Start by acknowledging no real difference between “ground water” and “surface water”. The sooner we do the better off we will be. If they are not connected then the water table is too low and raising should be the goal. The unconfined aquifer is the water table. The water table is the instream flow.

The only pathway to permanently protecting water in any watershed is by maximally recharging the aquifers and preventing development over recharging areas prioritizing the top of the watershed.

The only real Water Bank is the unconfined aquifer which is the water table/streamflow.

Aquifer recharge puts water into storage and cannot be over-appropriated because as the water table rises springs and gravity will determine appropriate storage level.

Need to enlarge, enhance and protect from development natural storage and recharge areas(floodplains, forest, wetlands, snowpack), prioritizing the top of each watershed.

Maximally recharging our aquifers is the most efficient and effective way to improve/maintain ecological health, nourishing microbes(bacteria, fungi) and plant life, photosynthesis soil building and carbon storage, preventing desertification.

The water table of the unconfined aquifer is the measurement for instream flow. To increase instream flow, raise the water table

The top of each watershed should always be the highest priority to saturate the unconfined aquifer which is the water table/streamflow.

Need to balance Instream Water Rights with effort to create the most healthy functioning landscape possible, focusing on recharging excessive drainage during spring thaw and other high/destructive flow events.

Maximally recharging our aquifers and putting water into storage as high in the watershed as possible during high/destructive flow events is the most natural, efficient and effective way to protect minimum flows(ISWRs) with springs of colder perineal water

The most “beneficial use” of water is progressing towards maximally recharging our aquifers, nourishing microbes(bacteria,fungi) and plant life, photosynthesis soil building and carbon storage, preventing desertification.

John Wesley Powell suggested all political boundaries should be based on watersheds.

I believe we need policies and rules that encourage aquifer recharge and large natural filtration basins/floodplains in any available area, beginning at and prioritizing the higher elevations of our watersheds, leaving the maximum opportunities for more retention at each successively lower level.i

Gravity and erosion will tend toward rapid and concentrated drainage of watersheds. Thankfully beaver and buffalo helped brake this process until they were considered more valuable skinned. Hooved grazing animals, constantly moving, herd trained by predators or otherwise, leave in their wake a lightly tilled and manured stubble, not excessively harvested, ideal for enhancing grass production and cover. Man-made means for spreading, retention and recharge are merely modern extension of the beaver’s eco-knowledge.

Artificial waterway channelization, for various purposes of convenience, has been way overdone. Compared to the 19th century, we have very little healthy functioning floodplain where waterways are constantly changing course, spreading and slowing the water, recharging our aquifers.

I believe we need policies and rules that tend against rapid channelization and encourage the slowing and spreading of early spring thaw, as high in watersheds as possible. We can no longer depend on or expect a slow melt off of winter snow pack.

The concept of "carry water" (water saved, or supposedly “not lost”, using piping and other more efficient water management) has been discussed. This concept suggests this water should be considered “new” water subject to appropriation and/or conveyance for lower elevation uses.

In my opinion, this idea short-sightedly ignores the benefits to all levels of eco-systems that accrue by effecting maximum aquifer recharge at each watershed elevation. When water is allowed to saturate soils and replenish aquifers while slowly traveling to lower elevations it has the potential to address and improve:

- desertification,
- depleting water tables,
- wells going deeper or dry,
- subsidence with resulting infrastructure damage,
- encroachment of salt water into fresh water,
- warm streams that should have cold spring-fed water mixing
- aquatic life disruption,
- intermittent streams that should be perennial,
- the extremes of climate change that could be cushioned by more ground and surface storage,
- nourishing of microbes and plant life,
- photosynthesis soil building
- carbon sequestration and storage,
- rapid drainage and soil erosion

Encouraging water users and water use decision makers to preserve priority water use at each natural level is a more purposeful and productive determination of efficient water management than whatever the cause, motive, legal pretext, or covering language is intended by "carry water".

Check out the water-concerns page on our website

<https://www.bluemtnranch.com/water-concerns>

Book recommendation: "Call of the Reed Warbler" by Charles Massy

Is it too late to regenerate the earth? Call of the Reed Warbler shows the way forward for the future of our food supply, our Australian landscape and our planet. This ground-breaking book will change the way we think of, farm and grow food. Author and radical farmer Charles Massy explores transformative and regenerative agriculture and the vital connection between our soil and our health. It is a story of how a grassroots revolution – a true underground insurgency – can save the planet, help turn climate change around, and build healthy people and healthy communities, pivoting significantly on our relationship with growing and consuming food.

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new way and interweaves his own local landscape, its seasons and biological richness.

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Gary Young

Box 13

Paulina, Oregon 97751

541-279-7572

Sent from my iPad

COVER PAGE

Draft Document

This document is intended to be in a draft format. The named agencies in House Bill 3293 (2021; ORS 541.551) are sharing this draft document with communities to gather input and feedback on a draft list of best practices in community engagement around water projects.

Agencies Project Vision Statement:

Through the collaborative development of Best Practices in Community Engagement, the named agencies in HB3293 (ORS 541.551) aim to promote meaningful inclusion of disproportionately impacted communities in decisions related to the identification, planning, and implementation of water projects. If agencies make support available for the development and implementation of community engagement plans for water projects, those resources are dedicated to plans that follow Best Practices for Community Engagement.

10 BEST PRACTICES ***in Community Engagement around Water Projects***



A Resource for Local Organizations and Local Governments for developing and implementing Community Engagement Plans for water projects.

Oregonians' Connection to Water

This resource outlines Best Practices in Community Engagement that may be used by local organizations and local governments, working alongside impacted communities, to conduct water projects.

Water projects in Oregon are diverse. They include watershed enhancement, water resource conservation and development, and water supply and wastewater treatment initiatives, among many others. Each project requires a tailored approach for engaging communities. By empowering local governments and local organizations with 10 Best Practices in Community Engagement for water projects, we hope to encourage water projects to explore ways to involve communities thoughtfully within the work they are doing.

The state's economic vitality heavily relies on its water resources. In 2023, it was estimated that over 48% of the state's total economic output and nearly 44% of its employment are directly linked to water¹. The fundamental value of water extends across Oregon communities' lives, including in housing, infrastructure, health, manufacturing, agriculture, energy, recreation, as well as the food and beverage industries. However, as drought conditions in Oregon continue to increase in intensity and duration, and Oregon's population centers continue to grow, the state's water scarcity concerns and need for inclusive water project solutions ever increases.

Engagement improves projects and helps Oregon meet the water needs of its economy, environment, communities, and cultures. This involvement between local communities and projects facilitates the exchange of invaluable local knowledge and insights, enriching the effectiveness and relevance of each water project. Additionally, fostering local community trust encourages transparency and cooperation among project organizers, regulatory agencies, and those impacted, thus promoting a sustainable and reliable water future for Oregon.

The following resource was developed to implement Oregon Revised Statute (ORS) 541.551 (Oregon House Bill 3293, 2021). By co-creating 10 Best Practices in Community Engagement for water projects, this resource and the directing legislation aims to promote meaningful inclusion of impacted communities, including disproportionately impacted communities, in water planning. Each water project is different, in scale and scope. As such, community engagement will also vary and not all Best Practices may apply to each water project.

The collaborative efforts outlined in this resource between local governments, local organizations, communities, and state agencies underscore a collective dedication to enhancing Oregon's water projects. The success of Oregon's long-term water solutions hinges on broad community support, amplifying engagement across various water sectors, and promoting initiatives that benefit the environment, economy, and Oregon's diverse communities. It is the aim that these 10 Best Practices will act as a first step in this process and help to guide future water projects.

¹ Pilz, D., et al. (2023) The Business Case for Investing in Water in Oregon.
https://www.oregon.gov/owrd/WRDPublications1/230721_FINAL_Business_Case_for_Water_in_OR_Exec_Summ.pdf

ORS 541.551 (Oregon House Bill 3293, 2021 Oregon Laws) emphasizes the importance of engaging communities, especially those disproportionately impacted or underrepresented, in decisions related to the identification, scoping, design and implementation of water projects. The bill directed specific agencies to work together and create Best Practices in community engagement for water projects. As part of this process, each agency pursues their own procedures for acknowledging this work in the Oregon Administrative Rules.

The bill does not mandate agencies to provide support for water projects. However, it defines essential elements for community engagement plans when agencies do support water projects and outlines how these plans should integrate Best Practices for community engagement. HB3293 also identifies the need for continued coordination among agencies to ensure consistent and updated implementation of these Best Practices in community engagement every five years, overseen by the Water Resources Department.

Key Terms based on community feedback and definitions provided in ORS 541.551:

Water Projects include actions related to watershed enhancement, in-stream flow protection or enhancement, water resource conservation or development, or water supply and wastewater treatment and disposal projects.

Water Project Support is planning, technical assistance, or financial support provided by state agencies related to a water project.

Providers of Water Project Support include the following named agencies: the Oregon Water Resources Department (OWRD), the Oregon Health Authority (OHA), Oregon Business Development Department (OBDD, dba Business Oregon), Oregon Department of Fish and Wildlife (ODFW), Department of Environmental Quality (DEQ), and Oregon Watershed Enhancement Board (OWEB).

Disproportionately Impacted Communities (for the purpose of water planning) may include rural communities; communities of color, tribal communities; coastal communities; areas with above-average concentrations of historically disadvantaged households or residents with limited access to educational opportunities or attainment; areas with high unemployment, high linguistic isolation, low levels of homeownership or high rent burden or sensitive populations; or other communities that face barriers to meaningful participation in public processes.²

Community Engagement Plan is a plan to meaningfully engage and provide suitable access to decision-making processes for disproportionately impacted communities, under-represented communities, tribal communities, and all persons regardless of race, color, national origin, or income in planning for water projects using identified best practices.

² This definition should be considered alongside other State definitions similar to Disproportionately Impacted Communities, such as Environmental Justice Communities as defined in ORS 182.535 Section 10 (4).

Exploring Community Engagement for Water Projects

Community Engagement is the process of working with groups of people who can be affiliated by place, interest, or lived experiences to address an important societal issue, such as water.

Water projects across Oregon are interconnected, with aspects of one water project affecting another water project. Communities are impacted by decisions made about water regardless of who is making them. Plans and projects that incorporate communities needs and input can increase resiliency and flexibility of Oregon communities, while increasing success of the project. By incorporating community knowledge and lived experiences, projects can generate durable and creative ways to address Oregon's water related problems.

Community Engagement must be designed to include meaningful engagement for impacted communities and provide suitable access to decision-making processes for water. Water projects should seek out and facilitate the involvement of members of disproportionality impacted communities. Community involvement is important for water project success and when done meaningfully has a positive influence over how decisions are made.³

State agencies are increasing efforts to collaborate and consult with tribal communities on water issues. State agencies and the 9 federally recognized Oregon tribes have a unique and special relationship with one another. Federally recognized tribes are recognized as sovereign with control of their governance, land, and resources. This recognition establishes a formal government-to-government relationship between Oregon's agencies and these tribes.

Although community engagement can take many forms, it is important to thoughtfully plan out engagement to ensure a holistic approach to the project. The following questions can be used by local organizations and local governments during the development of Community Engagement Plans and subsequent implementation of Best Practices in water projects.

³ As defined in ORS 182.535 Section 10 (7)

WHO should do Community Engagement?

- ✓ **Local organizations and local governments, working alongside disproportionately impacted communities, to conduct water projects.** Although the size, scope, and extent of community engagement will vary, water projects should aim to meaningfully engage and collaborate with disproportionately impacted communities.

WHAT goes into Community Engagement?

- ✓ **Common Ground** – Building a foundation of trust, respect, and supportive communication is valued. Active listening is also key to understanding and includes both verbal and nonverbal messages being shared. This may include accommodations for people who lack access to meaningful communication due to a disability, such as visual or hearing impairment or neurodivergence, as well as providing materials in languages commonly used by the disproportionately impacted community.
- ✓ **Awareness of Community** – Striving to ensure differences among communities are recognized and valued within water projects. Individuals should think about interactions and how the water project may physically, socially, economically, environmentally, culturally, or emotionally impact a community. Respect may be expressed differently depending on the community and individual.
- ✓ **Cooperative Norms** – Working towards shared understanding of acceptable and unacceptable ways of interacting with communities. Creating openness and responsiveness in water projects to changing community and environmental questions, needs, and concerns.

WHEN to do Community Engagement?

- ✓ **Beginning** - Communities should have opportunities to be engaged from the initial project design. The scope of community engagement should be scaled according to the needs of the community, the environment, and the water project.
- ✓ **Middle** - Some water projects are larger than others and may require a longer and more involved engagement process, while other water projects are small and may require a shorter planning and implementation process. Community engagement should be done even if a water project has already started.
- ✓ **End** - Engagement should continue throughout the project, including during evaluations and monitoring. This allows for communities to provide reflective input on the project. It may also allow for adaptive management of the project.

WHERE to do Community Engagement?

- ✓ **Small scale** – Engagement should occur locally in the places and communities where water projects are occurring.
- ✓ **Large scale** – Some projects have a larger geographic impact and, in those cases, larger scale engagement of those interested and affected should occur. Projects in one area can often impact larger watersheds or groundwater systems, and these impacts to both the environment and economies should be considered.
- ✓ **Format** – Not all disproportionately impacted communities can meaningfully interact in every format of engagement. It is important to consider reducing engagement barriers. This may include providing opportunities for virtual interactions for those who cannot physically attend gatherings as well as holding gatherings at times outside of traditional business hours such as nights and weekends. Other accommodations may also be needed to ensure participation by participants with dependents.

WHY conduct Community Engagement?

- ✓ **Increase participation of disproportionately impacted communities** in conversations about water projects and decision-making processes that may impact them now or in the future.
- ✓ **Expand understanding** of the “big picture.” Water influences various processes in multiple diverse ways. Actions in one area can impact other areas and processes, such as water affordability, water quality, and water availability.
- ✓ **Mitigate potential** for conflicts from water projects and explore creative community driven solutions to solve shared problems.
- ✓ **Improve outcomes** for Oregon’s communities, cultures, environment, and economy. It is important to consider that some water projects are not suitable for all communities, and this may result in some projects needing to be placed on hold or delayed achieving the best interests of the larger community.
- ✓ **Ensure practices** that maximize participation of disproportionately impacted communities and exclude past historical practices that may have marginalized or reduced participation.

HOW to conduct Community Engagement?

- ✓ **Use Best Practices in Community Engagement!** These 10 Best Practices act as a resource for water projects on how to interact with each other and communities regarding water. Because each water project and community are different, not all Best Practices necessarily apply to every community or project in the same ways. Those pursuing water projects should strive to ensure that the benefits of water projects extend to the broader community whenever possible.

Applying BEST PRACTICES in Water Projects

How Best Practices are used will change over time depending on the water projects' size and scope, as well as the needs and desired outcomes of disproportionately impacted communities. Not all Best Practices may apply to each water project or community.

These Best Practices were formed from synthesizing State-wide Initiatives with conversations with agency partners, local organizations, local governments, and others working in the field of community engagement.

To implement Best Practices, local organizations and local governments must take actions that guide the design and implementation of water projects. Each water project is different requiring its own set of unique actions to be taken by local organization, local governments, and communities to create meaningful engagement. As water project milestones are accomplished, new actions can be added to water projects to sustain engagement.

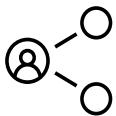
These [10 BEST PRACTICES](#) represent the culmination of input from many voices throughout Oregon.



- 1. Identify disproportionately impacted communities with interest in engaging in water project planning.** *Although it may be difficult to identify all interested parties, water projects should thoughtfully consider those who may benefit from or may be harmed by the water project, and those who have important perspectives to share based on their connection with the project location, project partners, and community. The identification of disproportionately impacted communities and local demographics using established systems is a critical first step to meaningful community engagement.*



- 2. Define the water project purpose and goals, including what will be done to involve disproportionately impacted communities.** *Communities may be impacted both positively and negatively by the work and the project. Negative project impacts from the project purposes and goals should be mitigated as much as possible prior to starting the water project.*



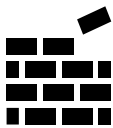
- 3. Develop new, or assess current, decision-making frameworks to identify opportunities to enhance access to the decision-making process for disproportionately impacted communities.** *Engagement should be designed to inform water project processes and outcomes and incorporate communities' perspectives and needs. Frameworks should be scaled to the water project goals.*



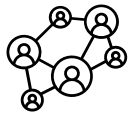
- 4. Invite tribal communities in Oregon to participate in the water project, acknowledging their preferences and capacity for collaboration.** *An invitation to participate in community engagement plans should not be in lieu of other forms of tribal consultation, outreach, or engagement with federally recognized tribes in Oregon.*



- 5. Co-create water project capacity opportunities that are inclusive, including to disproportionately impacted communities.** *When possible, invest in community-based organizations to build their own capacity to engage and maintain authentic relationships among communities and the water projects. Community investment can take many forms including compensating community members for their participation.*



- 6. Build collaborative relationships with disproportionately impacted communities and ensure all parties' voices are heard in the water project.** *When possible, water project actions should be focused on the best interest of the community and center on community needs, priorities, and voices. This may include structuring project budgets and timelines to account for resources associated with conducting engagement.*



- 7. Coordinate with the community and across water project participants to leverage resources, staff, and data.** *Water projects should clearly identify ways to optimize community engagement considering effective use of community members' time and resources.*



- 8. Ensure water project communications and information are shared in a timely, transparent manner, and in languages and formats commonly used or preferred by disproportionately impacted communities.** *Transparency and accountability of water projects should be incorporated into all aspects of the water project.*



- 9. Evaluate community engagement effectiveness before, during, and after the water project, based on communities' and projects' purposes and goals as well as capacities, and adapt future projects as appropriate.** *This ensures community feedback is integrated timely and projects are adaptively managed. Water project evaluation will take different forms depending on the project scope of work and the level of community impacts.*



- 10. Strive to monitor and document the positive and negative impacts of the water project on disproportionately impacted communities and their environments.** *Reconnecting with communities after projects are completed ensures lasting relationships and leads to improvement of future water projects. Monitoring should occur on scales that are appropriate for the goals and impacts of the water project.*

SOURCE MATERIALS

Source materials reviewed for this document are complementary to ORS 541.551 and came from a wide range of sources including state agencies, community-based organizations, national organizations, and peer-reviewed articles. References are available on request.

** Photos included in this document are for examples of water projects. Images are publicly available from Oregon State agencies' web media sources.*