

# Agenda

- Introduce Fee Review Panel
- Objectives for fee review (ORS 543.085)
- Fee Schedule for hydroelectric projects
  - Minor Projects – less than 100 Theoretical Horsepower
  - Time limited rights under ORS 543
  - Water rights that do not expire under ORS 537 or 539
- Annual Fees assessed since 2001
- Agency Expenses for hydroelectric programs
- Inflation Factors
- Comments and Discussion
- Next steps

# Fee Review Panel

**ORS 543.085 Periodic review of annual fee.** (1) The Water Resources Director shall appoint a review panel to review the amount of the annual fee established under ORS 543.078 in 2003 and 2009 and every eight years thereafter. The review panel shall consist of at least one representative from the following and others at the director's discretion:

- (a) The Department of Environmental Quality;
- (b) The State Department of Fish and Wildlife;
- (c) The Public Utility Commission;
- (d) The Water Resources Department;
- (e) Investor owned utilities;
- (f) Publicly owned utilities;
- (g) Municipalities;
- (h) Environmental organizations;
- (i) Agricultural organizations;
- (j) Nonutility owners of hydroelectric projects.

# Public Notice

- ORS 543.085(2). All holders paying annual fees under ORS 543.078 shall be notified by the Water Resources Department at least 60 days in advance of the meeting of the review panel established in subsection (1) of this section, and provided the opportunity to submit comments to the panel.

# Fee Review Criteria

- ORS 543.085(3). Any periodic review conducted under subsection (1) of this section shall evaluate each agency's hydroelectric program to determine if current staffing levels, activities and funding are appropriate to fulfill program objectives.
- **There shall be a presumption that the fee should not change.** To overcome the presumption and alter the existing fee, the panel must find compelling reasons for alteration and must reach unanimous consent on the new fee.

# Recommendation to the Director

- ORS 543.085(3) (continued)
- If the presumption is overcome, upon completion of the review process the director shall either adjust the annual fee as recommended by the panel or elect not to adjust the fee. Any change in the annual fee as a result of this section shall become effective on the January 1 following the director's action. The director shall notify all holders of any change in the annual fee and the effective date of such change. [1999 c.873 §8]



HYDROELECTRIC ANNUAL FEES			
	Minor Project	Major Project - Private Developer	Major Project - Municipal Developer
ORS 543.300 and OAR 690-051-400(6)	\$1 up to 25 THP, then \$0.20 per THP (\$1 to \$40)	\$1 up to 25 THP, then \$0.20 per THP	
ORS 543A.415	\$15 minimum, add to above to get \$0.28 per THP	add to above to get \$0.28 per THP	
ORS 543.710			\$0.30 up to 50 THP then \$0.28 per THP
ORS 543.078	\$50	\$0.405 per THP in 1998 dollars	\$0.405 per THP in 1998 dollars
	Increase at time of new water right issued or Jan 2008	exception if water right expiration is later than FERC expiration	Increase when new FERC license is issued or Jan 2008

## ORS 543.078 Annual Fee for Hydroelectric Project

- (1) On or before January 1 of each year, each holder shall pay to the State of Oregon an annual fee for each hydroelectric project that is subject to this section. The annual fee required by this section shall be based on the theoretical horsepower specified in the water right for each project.
- (2) The amount of the annual fee required under subsection (1) of this section shall be determined in the following manner:

## ORS 543.078 continued

- (a) Subject to the schedule set forth in subsection (3) of this section, each holder shall pay an amount, **in 1998 dollars, equal to \$0.405 per theoretical horsepower** covered by the water right for the holder's hydroelectric project. The annual fee may be set forth in the water right or may be established by order of the Water Resources Director and **shall be adjusted annually for inflation** according to rules established by the Water Resources Commission. **The annual fee also may be adjusted through the periodic review process established in ORS 543.085.**
- (b) Each holder of a hydroelectric project that produces 123.5 theoretical horsepower or less shall pay an annual fee of \$50 for that project.

## ORS 543.078 continued

- (3) The fee determined in subsection (2) of this section shall apply to a project on the January 1 following the occurrence of an event enumerated as follows:
- (a) A licensee or water right certificant shall begin to pay the annual fee after the final order for the reauthorized water right is issued under ORS 543A.130.

## ORS 543.078 continued

- (b) Notwithstanding paragraph (a) of this subsection, if a licensee holds, on October 23, 1999, an original state hydroelectric license for which the original expiration date was or is more than five years after the expiration date of the original Federal Energy Regulatory Commission license for the project, the licensee shall begin payment of the annual fee established under this section after the expiration date of the original state hydroelectric license.

## ORS 543.078 continued

- (c) A power claimant, or uncertificated claimant, licensed by the Federal Energy Regulatory Commission shall begin to pay the annual fee after the Federal Energy Regulatory Commission issues a new license. A power claimant or uncertificated claimant that received a new license from the Federal Energy Regulatory Commission within 10 years prior to October 23, 1999, shall begin to pay the annual fee on January 1, 2000.

## ORS 543.078 continued

- (d) A power claimant, or uncertificated claimant, whose project is exempted from licensure by the Federal Energy Regulatory Commission or not licensed by the Federal Energy Regulatory Commission shall begin paying the annual fee under this section on January 1, 2008, for that project.
- (4) No fee shall be assessed under ORS 543.710 for a project subject to an annual fee under this section.  
[1999 c.873 §5]

# Minor Hydroelectric Projects < 100 THP

- Hydroelectric projects authorized under ORS 543, are assigned an annual fee at time of project approval (ORS 543.300(5)).
  - This statute sets a maximum fee of \$1 per THP and allows the Water Resources Commission to set fees by rule.
  - Fees under OAR 690-051-0400(6) are \$1 per THP up to \$25. Projects larger than 25 THP are assessed \$0.20 for each THP in excess of 25.
- In 1997, ORS 543A.415 became law and increased annual fees to accommodate hydroelectric reauthorization expenses of the state agencies. In 1999, the Legislature adjusted the fees to \$0.28 per THP or \$15, whichever is greater.
  - Minor hydroelectric projects which range in size from less than 1 THP to 99.9 THP are subject to fees in the range of \$15 to \$40.
  - Today, there are about 34 projects that pay annual fees under this fee class (Class A).

# Minor Hydroelectric Projects < 100 THP - Relicensed

- Once a minor hydroelectric project has been relicensed, its annual fee is increased to \$50 per year. (ORS 543.078(2)(b)).
- There are about 43 minor hydroelectric projects that have been relicensed and now pay fees of \$50 per year (Class D).
- There are an additional 3 minor hydroelectric projects that have water rights that do not expire and are not regulated by FERC.
- These 3 projects began paying a \$50 annual fee in January 2008 (Class D). (ORS 543.078(3)(d))

- Pause here and ask if any public comments on \$50 minimum fee for minor hydroelectric projects.

# Fees Applied to New Minor Projects

- New minor project from backyard developer would begin paying fees at \$15 to \$40 per year. 543.300(5) and 543A.415.
- Same size project from a municipal developer with FERC exemption would begin paying at \$50 per year. 543.078(2)(b) and (3)(d)

# Major Projects under ORS 543

- Projects authorized under ORS 543, are assigned an annual fee at time of project approval (ORS 543.300(5)). The statute sets a maximum fee of \$1 per THP and allows the Water Resources Commission to set fees by rule. Depending on when the project was approved, fees may have been either \$0.15 or \$0.20 per THP.
- In 1997, ORS 543A.415 increased annual fees to meet reauthorization expenses of the state agencies. Later, the Legislature set the fees at \$0.28 per THP.
- See list of projects that pay annual fees under this fee class. They include projects that are large utility owned projects and several are medium sized projects.

## When Water Right Extends 5 Years Longer than FERC License

- There are two additional projects in fee class B that have been reauthorized, but are not required to pay increased fees in fee class C until their original State water right expires.
- The original water right for the Round Butte project will expire 12/31/2010 and the original water right for the Pelton project will expire 12/31/2011. Those projects have been issued a new water right, but are paying fees under their original water right (\$0.15 per THP) until the original expiration date for the Project.
- The Oxbow and Hells Canyon Projects may also be in a similar position if new water rights are issued before 12/31/2011 or 12/31/2017, respectively.
- (ORS 543.078(3)(b))

## Relicensed fees adjusted for inflation

- Once a major hydroelectric project has been relicensed, its annual fee is increased to an amount, in 1998 dollars, equal to \$0.405 per theoretical horsepower. The annual fee may be set forth in the water right or may be established by order of the Water Resources Director and shall be adjusted annually for inflation according to rules established by the Water Resources Commission. The annual fee also may be adjusted through the periodic review process established in ORS 543.085. (ORS 543.078(2)(a)).
- See list of major hydroelectric projects that have been relicensed and now pay fees as above (Class C).

# Power Claims

- Hydroelectric projects authorized prior to 1931, or as part of pre-1909 adjudication claim, or for a municipal entity under ORS 537 are assigned a fee under ORS 543.710. These projects have water rights that do not expire, and they are not required to seek reauthorization under state law, but may be required to reauthorize under federal law.
- See list of projects that pay fees according to ORS 543.710 @ \$0.28 per THP (Fee Class G)

## Relicensed fees adjusted for inflation

- Once a major hydroelectric project has been relicensed by FERC, its annual fee is increased to an amount, in 1998 dollars, equal to \$0.405 per theoretical horsepower. The annual fee may be set forth in the water right or may be established by order of the Water Resources Director and shall be adjusted annually for inflation according to rules established by the Water Resources Commission. The annual fee also may be adjusted through the periodic review process established in ORS 543.085. (ORS 543.078(2)(a)).
- See list of major hydroelectric projects that have been relicensed and now pay fees as above (Class I). There are also projects exempted from licensure by the FERC or not licensed by the FERC that began paying the annual fee under ORS 543.078(3)(d) on January 1, 2008.

HYDROELECTRIC ANNUAL FEES			
	Minor Project	Major Project - Private Developer	Major Project - Municipal Developer
ORS 543.300 and OAR 690-051-400(6)	\$1 up to 25 THP, then \$0.20 per THP (\$1 to \$40)	\$1 up to 25 THP, then \$0.20 per THP	
ORS 543A.415	\$15 minimum, add to above to get \$0.28 per THP	add to above to get \$0.28 per THP	
ORS 543.710			\$0.30 up to 50 THP then \$0.28 per THP
ORS 543.078	\$50	\$0.405 per THP in 1998 dollars	\$0.405 per THP in 1998 dollars
	Increase at time of new water right issued or Jan 2008	exception if water right expiration is later than FERC expiration	Increase when new FERC license is issued or Jan 2008

# Fees Applied to New Major Project

- If a new major project is proposed by an private company, the new water right sets fees at \$0.28 per THP for 30 to 50 years of license.
- If a new major project is proposed by a municipal or irrigation district for a water right permit and FERC license, new fees are set at \$0.28 per THP for 30 to 50 years of license.
- If a new major project is proposed by a municipal or irrigation district for a water right and FERC exemption, new fees are set at \$0.405 as inflated per THP (approx \$0.52 per THP) immediately.

# Annual Fees

<b>Total THP in 2001</b>		<b>3,138,402</b>
<b>Four Large Utilities</b>	<b>THP</b>	<b>2,975,000</b>
<b>Other Producers</b>	<b>THP</b>	<b>163,000</b>

Variation in Total Fees per Change in THP		
2001 to 2003	\$886,840	begin with approx 3.1 million THP
2004	\$889,859	
2005	\$870,946	Carmen Smith & Trail Bridge less 66,000 THP
2006	\$883,640	Willamette Falls relicensed 58,000 THP
2007	\$844,365	Pelton & Round Butte 716,000 to \$0.15, new 97,000 THP at \$0.405
2008	\$933,708	N Umpqua relicensed 310,000 THP, new 32,000 THP, Powerdale ceases 10,000 THP, FERC exempt to \$0.405
2009	\$934,302	Prospect relicensed 72,000 THP, Marmot ceases 30,000 THP, lesser inflation

# Projected Annual Fees

	2010	2011	2012
•	\$946,870	\$1,285,949	\$1,468,869
• THP			
@ \$0.15 -	716,011	221,420	322,159
@ \$0.28 -	1,815,535	1,345,535	388,831
@ \$0.509 -	646,403	1,720,994	2,576,959

# Agency Revenues July 2009 – June 2011

- ODFW – 6.8 FTE      \$619,000 per year
- ODEQ – 1.1 FTE      \$170,000 per year
- OWRD – 2.0 FTE      \$208,000 per year
- Total budget              \$997,000 per year

# ODFW's Hydro Program

- This biennium ODFW anticipates receiving about \$619,000 per year from annual fees
- Annual fee pays for 6.8 FTE per year
  - 5 FTE Regional Hydro Coordinators
  - 1 FTE Program Coordinator
  - .5 FTE Program Manager
  - .3 FTE Engineer
- Fees fund ODFW's hydropower program which provides licensing and implementation services.

# ODEQ Hydro Program

- ODEQ receives about \$170,000 per year from annual fees
- Annual fee pays for about 1.2 FTE per year
  - 1 FTE Program coordinator
  - 0.2 FTE regional staff
  - Fees pay for licensing and water right services
- ODEQ relies on contracts and project specific fees to pay for regional staff

# OWRD Hydro Program

- OWRD receives about \$208,000 per year from annual fees
- Annual fee pays for 2 FTE per year
  - 1 FTE Program coordinator
  - 1 FTE natural resource specialist

About 0.1 FTE of supervisory and support staff is also included.

# State Hydropower Program in Transition

- Over the past 10 to 15 years focus has been on relicensing of existing projects
- Revenue from annual fees has fluctuated up and down ±5%
- State agency costs continued to rise
- State agencies adjusted program staffing to balance funding with expenses

# State Hydropower Program in Transition

## Adjustments in State Agency Programs

- ODFW (Elimination of 2 positions and augmentation of program to maintain positive balance)
- ODEQ (Staff have been reassigned)
- OWRD (Elimination of 1 position)

# State Hydropower Program in Transition

- Existing fee structure provides for rising costs
- 2009-2011 biennium is transition period stabilizing funding with expenditures
- 2011-13 State agencies need to adjust hydro program to transition to implementation of new licenses and new hydro challenges.

# Next Generation Hydroelectric Projects

- Retrofits to existing dams
- Retrofits to irrigation canals and conduits
- Retrofits to municipal water systems, aquifer storage, and wastewater
- Hydrokinetics
- Wave energy devices
- Pumped Storage

# Inflation Calculators

- <http://cost.jsc.nasa.gov/inflate.html>
- [http://www.bls.gov/data/inflation\\_calculator.htm](http://www.bls.gov/data/inflation_calculator.htm)
- <http://cost.jsc.nasa.gov/inflateGDP.html>

	NASA	CPI	GDP	Fee charged per THP
2004	0.470	0.469	0.449	
2005	0.479	0.485	0.454	0.472
2006	0.489	0.501	0.461	0.479
2007	0.499	0.515	0.469	0.489
2008	0.509	0.535	0.478	0.499
2009	0.520	0.536	0.488	0.488
2010				0.509
2011				





# Final Questions

- Is there agreement that compelling reasons exist to change the annual fees?
- Is there unanimous agreement that the inflation factor should be adjusted in a particular manner?
- Other Issues?