



April 6, 2020

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**Submitted Via Email: [racquel.r.rancier@oregon.gov](mailto:racquel.r.rancier@oregon.gov)**

*Re: Comments on OWRD's Proposed Rulemaking Regarding Safety of Dams: Rules for Design, Construction, Maintenance, Corrective Action, Removal, and Emergencies*

Dear Ms. Rancier,

Thank you for the opportunity to comment on the Oregon Water Resources Department's proposed rulemaking regarding dam safety. As you are aware, the Oregon Farm Bureau and Oregon Water Resources Congress both participated in the 2019 legislative negotiations that resulted in HB 2085, and both actively engaged in the Rules Advisory Committee (RAC) charged with the development of the rules in multiple sections of OAR Chapter 690, Division 020 to implement the new legislation. Our members are irrigation districts, farmers and ranchers, and other agricultural entities who own, operate, and/or receive water from dams that are subject to the state's dam safety program, and our members will be directly impacted by the adoption of these rules.

The 2019 legislation and associated rules are quite comprehensive, as these are the first significant updates to the statute in nearly 100 years. We appreciate and understand the need for these updates, as the existing dam safety program was insufficient to address the growing needs of the program around seismic resilience and needed to be modernized to adapt to the needs of the 21<sup>st</sup> Century. As such, we appreciate the work the Department did to ensure that the concerns of the dam operators were addressed throughout the legislation and associated rule updates while ensuring that the program meets the implementation needs and goals of the Department. Additionally, Department staff did an excellent job ensuring the RAC had adequate information and time to review the proposed rules while also maintaining the schedule for rules adoption and implementation of the program.

However, these updates are comprehensive in nature and represent some significant changes to the program that were only fully understood in the rulemaking process by the Department clearly stating their interpretation and intended implementation approach. It is imperative that the Department adheres to its representations on implementation described during the RAC process. In the first years of the new program, this will mean placing a premium on education rather than enforcement and ensuring flexibility on implementation as unforeseen circumstances arise. Successful implementation of the modernized dam safety program will require proactive outreach and education of impacted dam owners and operators to ensure awareness and understanding of the new rules.

We also encourage the Department to provide periodic updates on the implementation of these changes, at a minimum providing annual reports to the Water Resources Commission in the first years of the program, and to create opportunities for dam operators to provide formal feedback. This is particularly important in the first years of the program, as implementation of the modernized dam safety program needs to remain workable and grounded in reality. Such reports will allow for early adjustments to any unforeseen circumstances and ensure that the Department has the tools to efficiently oversee the state's Dam Safety program.

Passage of HB 2085 and development of the accompanying set of updated rules was a herculean effort undertaken by the Department and its stakeholders, and a necessary but long overdue effort to modernize a 100-year-old program to meet current needs. We strongly encourage the Department not to wait another 100 years to address ongoing needs within the program. Instead, the Department needs to review its rules and processes regularly to ensure they not only meet the program's goals, but do not impose an undue hardship on dam operators and remain readily implementable.

Thank you for the opportunity to provide comments, and please let us know if you have any questions.

Sincerely,

April Snell  
Oregon Water Resources Congress

Mary Anne Cooper  
Oregon Farm Bureau