



## **COLUMBIA RIVER-UMATILLA SOLUTIONS TASKFORCE**

### **DECLARATION OF COOPERATION**

**February, 2013**

#### **I. Background, Project Purpose and How We Will Work Together**

Whereas: There is a great need for additional jobs and economic activity in rural Oregon, and

Whereas: There is an opportunity to support and enhance continued salmon and native fish recovery efforts in the mainstem of the Columbia River and in the Umatilla Basin; and

Whereas: There is an opportunity to create additional economic activity through irrigated agriculture in the Umatilla Basin; and

Whereas: There is an opportunity today to build upon:

- a) Recent efforts of Umatilla Basin irrigators, public agencies, Confederated Tribes of the Umatilla Indian Reservation, and conservation interests to build working relationships and implement the Umatilla Basin Aquifer Storage and Recovery Project.
- b) Lessons learned from the State of Washington Office of the Columbia River, which has, over the last six years, developed or worked on 40 projects to increase Columbia River water utilization for in-stream as well as out-of-stream uses.
- c) The many studies and actions related to salmon recovery in the Umatilla Basin and main stem of the Columbia River,
- d) The State's new Integrated Water Resource Strategy

Therefore: Governor Kitzhaber has designated as an "Oregon Solutions" project the Columbia River – Umatilla Solutions Taskforce, convened on the Governor's behalf by: Umatilla County Commissioner Dennis Doherty and Richard Whitman, the Governor's Natural Resources Advisor. Oregon Solutions projects are, by Oregon Statute, designed to help support a sustainable economy, sustainable community, and sustainable environment.

We, the members of the Columbia River – Umatilla Solutions Taskforce, subscribe to the following objectives:

1. Identify options to increase utilization of Columbia River water for in-stream and out-of-stream uses in the Umatilla Basin without negatively impacting instream flows needed for fish species. The options considered should include Oregon-only actions, as well as those requiring joint agreements or actions with the State of Washington and/or other

states or tribes. The options considered should also include a range of short-term (less than three years to implementation) as well as longer-term options.

2. Develop and evaluate these options according to a set of criteria adopted by the Solutions Taskforce. Options should be as geographically specific as possible, and developed with an eye toward optimizing:
  - a. technical feasibility,
  - b. economic feasibility,
  - c. legal feasibility, and
  - d. political feasibility
  
3. After evaluating options, develop an action plan that includes:
  - a. Options for which there is consensus to move forward;
  - b. Options for which there is not consensus but enough promise to warrant further work and discussion; and
  - c. Statutory, administrative rule, or institutional action, if any are needed, to implement the recommended options.
  
4. The package of consensus options will, as a whole, result in both economic and environmental benefits, including aquifer restoration, tributary streamflow enhancement, and/or mainstem flow enhancement.
  
5. The package of consensus options should support, rather than impede, other water-related planning efforts such as:
  - a. The Tribal Water Rights Settlement discussions
  - b. The Basin 2050 Water Plan
  - c. Columbia River Salmon and Steelhead Recovery plans
  - d. The State's Integrated Water Resources Strategy
  - e. Umatilla Groundwater Management Area Action Plan
  
6. The package of consensus options will be provided to the Governor, The Oregon Legislature, and the Washington Department of Ecology Office of the Columbia River in December 2012 to support informed policy decisions and project development.

We also agree to the following principles on how we will work together:

1. We each commit to help this group develop workable solutions, both long-term and near-term, and will do our part in helping to implement those solutions.
2. We will operate by consensus, striving to jointly develop a list of actions that we can *all* support, and which will be part of a Declaration of Cooperation that we can all sign.
3. We recognize that for a solution or combination of solutions to be implemented, they will need to be acceptable to other parties at the table. We will therefore work hard to find solutions that are mutually satisfactory.
4. We accept our responsibility to raise issues or concerns with the Solutions Taskforce, rather than outside the group. We also agree that the integrity of the Solutions Taskforce requires each of us to work within this process, rather than seek to advance an independent interest, position or preferred outcome through the media or other forums.
5. Differences in opinion are to be expected in a group with such diverse perspectives. We won't shy away from those differences, but will work hard to reconcile them.
6. We will work hard to make sure others feel that their interests have been adequately heard and addressed in reaching a group agreement. Until the signed Declaration of Cooperation, we will be careful not to represent other's positions in a public forum..
7. We will conduct ourselves with civility and respect. We will listen (and not interrupt) when others are talking. During Solutions Taskforce meetings, we will wait to be recognized by one of the two Conveners before speaking. We'll respect each other's time by being concise and on-point with our own remarks.
8. We are each committed to this process, making the Solutions Task Force meetings a priority for our calendars, arriving on time, reviewing necessary materials, and helping the group reach timely decisions. It also means not undermining agreements of the task force in other forums.
9. We are committed to both representing and also "bringing along" our own organizations as the Solutions process moves forward and decisions are made.
10. Meetings will be open to the public, and there may be specific times made available for comments from the audience, but generally speaking the participation in discussions will be limited to Task Force members and invited guests.

## II. Overall Strategy and Action Plan

The Columbia River-Umatilla Solutions Taskforce considered nearly 30 separate options since June 2012, utilizing survey-level information to screen those options against four criteria: a) Economic development impacts, b) Ecological impacts, c) Technical, legal, and political feasibility, and d) Economic feasibility.

The result was a set of consensus solutions that, taken together, we believe can result in mutual benefits for both agricultural economic development and ecological stream flows. The group is not recommending changes to existing fish protection laws. Many of these solutions could be implemented in the short term (1-5 years), and many of them can be implemented without the need for interstate agreements.

**\*\*We emphasize that the consensus for moving forward on these options does not mean a carte blanche approval for implementing an option regardless of the ultimate specifics or parameters of the action. Rather, it represents a *good-faith* agreement that these are the options we believe have the best chance of success and we recommend taking the next steps toward determining and enhancing their technical, economic, and political feasibility. The options fall under three basic strategies:**

- **Develop additional water storage capacity.** We need to develop both in the short and long term additional capacity for storing Columbia River water during winter months, for later use during irrigation and fish migration seasons. This strategy includes both aquifer storage and above-ground storage, primarily in Oregon. While possible joint investments in large storage sites in Washington or Idaho could become more viable over the next year, we are not recommending specific action on those options at this time.
- **Improve water management.** Using water more efficiently and more productively will help us get the most value in the basin from the water we have. This strategy includes greater investments in conservation practices, potential transfers of developed water rights, and improved water transaction mechanisms to move water between users and uses.
- **Develop a stronger interstate approach to Columbia River water.** Some options depend upon interstate agreements about protecting newly stored or conserved water as it flows through Washington or Idaho. We need the institutional capacity to develop these agreements and explore longer term opportunities for potential joint-investments in State of Washington and elsewhere in new large (up to 1 million acre-feet) water storage projects. It is also important to coordinate with discussions related to the Columbia River Treaty Review.

### Governance going forward

Other opportunities may become available, and the consensus options we've identified may change as new information becomes available. The current description of these options should not preclude flexibility going forward.

To ensure appropriate follow-up and implementation of these strategies going forward, we need the institutional and staffing capacity for recommended Columbia River planning, water conservation, instream and out-of-stream water development, and interstate agreements. A structured discussion with the appropriate stakeholder representation is needed to further develop the longer term institutional framework and capacity to address these issues and opportunities, and to fully develop the strategies and options recommended, below.

## III. **Consensus Options for Developing Additional Storage Capacity**

- Testing and Completion of the Stage I Umatilla Basin Aquifer Recovery Project

The State of Oregon has invested \$3 million in the Umatilla Basin, to facilitate the preliminary design, and build out of the first Columbia River recharge project. Remaining work is to test recovery and utilization of realized alluvial storage capacity, and identify if any additional storage capacity over what is currently developed can be developed in the future.

*Next steps:*

- Umatilla Basin Water Commission is currently working with Westland Irrigation District to develop a contract for an initial 8,000 acre-feet from the Aquifer Recovery project. This initial work would need to be coordinated with Confederated Tribes of the Umatilla Indian Reservation to ensure compatibility with the Tribal Water Rights Settlement discussions.
- Continued discussion of *net environmental benefit* requirements that would apply if there is public finance of this project. This policy is being addressed on a state-wide basis by a work group convened by the Governor's office, though the CRUST has taken no position on whether it supports that workgroup's conclusions.
- A longer term option, building upon the current aquifer recovery project, is to develop additional aquifer storage capacity in the region, up to 100,000 acre feet.

*Time Frame:* Short term, should be implementable within 3 years.

*Budget Needs:* No specific request at this time.

- Wallowa Lake Dam Repair

*Summary:* The Wallowa Lake Dam is owned by the Associated Ditch Company and is an old concrete dam in poor condition. For safety reasons, water levels in the lake have been significantly reduced, and repair of the dam could allow higher lake levels and subsequent release of 4,000-14,000 acre-feet of additional stored water during irrigation season. This project's strong support is based upon the project's intended purpose to benefit both in-stream habitat for fish in the Grande Ronde basin as well as provide additional water for irrigation to Umatilla Basin irrigators on a one-for-one basis as it ultimately flows into the Columbia River.

This project is a high priority for Wallowa County for flood protection purposes, and has been actively pursued and supported by the Umatilla County Critical Groundwater Task Force. It is seen as a model to show how water users in downstream regions statewide can work with partners in other connected watersheds or other regions on multi-gain projects. In addition, the instream benefits of this project can be enhanced through conservation investments described in a separate option described below.

*Next Steps:*

- Agreement from Associated Ditch Company to work with other stakeholders, including Umatilla Basin irrigators, other public agencies.
- Collaborative process to define project parameters, address fish passage and other design issues, and identify financing sources.
- Develop financing package for repairs, including potential State bonding authority and private (irrigator) commitments for purchase of water.
- Agreements with the State of Washington will be needed to protect the water, as it flows through Washington.
- Some additional study and design work, amending or augmenting previous design work will likely be needed.

*Time frame:* Relatively short term. Assuming successful agreements and financing, construction could be completed within 5 years.

*Budget Needs:* Up to \$250,000 for additional feasibility work.

- New Juniper Canyon Storage Reservoir

*Summary:* A proposed dam in Juniper Canyon, an intermittent stream approximately 25 miles northwest of Pendleton and one mile upstream from the Columbia River. The potential storage reservoir is estimated at 49,000 acre-feet of water, which would be pumped from the Columbia during winter months. Current law requires a 25% net environmental benefit if there is public financing involved.

*Next Steps:*

- A more detailed appraisal study of the site is needed. OWRD will contract for services with appropriate technical experts to complete this study, contingent upon available funding . This appraisal would include: geotechnical evaluation, hydrology evaluation, environmental impact evaluation, property ownership status, historical preservation evaluation, conceptual design, project critical path, and economic assessment.
- The appraisal study, which is what the CRUST is recommending, provides initial information to determine if further consideration is warranted. Additional analysis would be required to determine ultimate feasibility of the project. Note: Other potential storage facilities (either new or expanded) could be considered, including Carty Reservoir, Malheur Dam, and Sand Hollow, depending upon the availability of funds, or if the result of the appraisal study of Juniper Canyon , which is currently seen as the preferred option among these storage sites, is negative.

*Time Frame:* Long term – construction would be 5-10 years out. Appraisal study could be completed within one year.

*Budget Needs:* Additional feasibility work. Estimate is for \$250,000, based upon experience of Washington’s Columbia River Program appraisal studies.

#### IV. Consensus options for Improving Water Management

- Leasing Unused Developed Washington Water Rights

*Summary:* The Port of Walla Walla has approximately 4700 acre-feet worth of fully-developed water rights that it has temporarily leased to the Washington Trust Water Rights Program. Currently, about 1500 acre-feet of those rights could be leased at an estimated \$105 per acre-foot to stay in stream and then used as mitigation for acquiring Oregon time-limited water rights for Columbia River withdrawal. (Additional amounts may become available over time.) The rights would be temporary for up to 8 years, with the potential to interrupt their availability. This option has been discussed with the Washington Policy Advisory Group which supports moving forward to a formal proposal.

It has been confirmed by Washington's Department of Ecology that these rights were not purchased by BPA for meeting Bi-op instream commitments, which means that they are eligible to be used for mitigation purposes. Use of these water rights is not subject to the requirement of Washington's Columbia River program that one-third of the stored water be used instream.

There may be additional opportunities beyond the Port of Walla Walla rights. For example, there are additional water rights on the John Day Pool, held by the Klickitat P.U.D. The P.U.D has indicated an interest in possible leasing or marketing of those rights through the Washington Trust Water Rights program, though it is currently unclear how those rights might be used as mitigation. Working through the Washington Trust Water Rights program water could possibly result in additional water for use in Oregon.

*Next Steps:*

- Continued discussion with State of Washington and their Trust Water Rights Program to work through details of a lease.
- Determination by Oregon Water Resources Department what type of temporary permit or lease would be issued on the Oregon side, using the Washington rights as mitigation
- The marketing of these rights to Oregon water users, and the development of agreements for leasing. Once potential lessees are identified, the development of a master lease with the Washington Trust Water Rights program on a temporary basis.

*Time Frame:* Short term, could be done within 1 year.



*Budget Needs:* None at this time.

- Pilot Transaction for a proposed Umatilla Basin Water Bank and Brokerage

*Summary:* Conduct and analyze a model transaction (using current law and rules) during the 2013 irrigation season that represents a type of transaction that could be facilitated through a water bank, which would be intended to facilitate transactions in an effective, time-sensitive manner. The pilot would be administered by the Umatilla Basin Water Commission or other entity, and would be subject to existing legal requirements. .

*Next Steps:*

- Umatilla Basin Water Commission to identify and get approvals for pilot water transaction or transactions.
- Conduct transactions for 2013 season. Have group of stakeholders, including OWRD, conservations interests, irrigators, review the results Building upon the pilot transaction(s), convene a broader stakeholder group to continue discussions on whether a water bank should be developed.

*Time Frame:* Short Term, the pilot transaction could be accomplished in 2013.

*Budget Needs:* None.

- Water Conservation investments in Wallowa Basin

*Summary:* Water conservation measures related to agricultural use in the Wallowa basin, and potentially other parts of the Grand Ronde basin, might provide additional water for both ecological flows and potential irrigation in the Umatilla Basin. There may be some additional conservation investments in the Umatilla Basin as well, but it appears there may be greater opportunity in the Wallowa Basin and larger Grand Ronde basin, which may not have as many new competing needs for water. Additional water in these basins would also provide more stream miles with fish flow benefits. The total volume saved is unknown. The Wallowa Soil and Water Conservation district has a current conservation program which is studying target watersheds.

This option would be subject to the Oregon Conserved Water Law, which would require a percentage of the water to be saved in-stream. It would enhance the instream flow benefits related to the Wallowa Dam Repair project, described above.

*Next Steps:*

- Completion of the target watershed analysis by Wallowa County SWCD

- Discussions with Wallowa SWCD, Wallowa County, Freshwater Trust, and OWRD to determine potential investments, savings, and subsequent out-of-stream uses.
- Agreements with the State of Washington will be needed to protect the flow of water, as it flows into the Snake and Columbia Rivers, in Washington.

*Time Frame:* Short term – could be completed in 1-3 years.

*Budget Needs:* \$200,000-\$400,000 for matching funds to complete water conservation projects

## V. **Consensus actions for developing a stronger interstate approach to Columbia River water**

- Agreements with State of Washington (and/or Idaho) to protect water conserved or stored in Oregon

*Summary:* Water newly conserved or stored in Oregon (see: Wallowa Dam and Wallowa Basin Conservation options) which flows through Idaho and Washington prior to becoming available to the Umatilla Basin runs the risk of being appropriated by Washington irrigators, thus erasing any benefit to Oregon users. Recent discussions with the Columbia River Policy Advisory Group in Washington indicate their interest in working out an agreement to protect that water as it flows through Washington.

*Next steps:*

- Further discussion with State of Washington Policy Advisory Group.
- Develop interstate agreement.

*Time Frame:* Short term, should be implementable within 2 years.

*Budget Needs:* Funding for interstate policy position to help negotiate this agreement

- Interstate discussions on potential joint investments or joint utilization of water storage sites.

*Summary:* Several of the options considered by the C.R.U.S.T. involve joint investment in large (1 million acre-feet-plus) water storage sites for winter storage and release during irrigation season. There are potential sites being studied in Washington as well as Idaho. In addition, there are other opportunities related to Canadian water and the Columbia River Treaty.

*\*Most of the discussion of the CRUST focused on partnership with the State of Washington. None of the potential Washington storage sites were ranked as consensus options for moving ahead at this time, in large part because of economic and environmental feasibility concerns. All are in the appraisal level analysis stage, so more information may become available. In addition there have been recent overtures from the State of Idaho that the CRUST has neither discussed nor evaluated. Canadian water options were also not listed or ranked, though there are currently on-going discussions exploring this possibility, both within and outside of the Canada Treaty discussions.*

The State of Washington has indicated the physical layout of the Crab Creek site in Washington may be altered and subject to a new appraisal study in 2013, with a new design that they believe could significantly reduce the footprint and related environmental mitigation issues.

The State of Idaho is doing preliminary geologic testing of a proposed Weiser River storage site, and this also should be completed in 2013.

*Next steps:*

- Continue discussions with Washington and Idaho regarding the appraisal work being conducted on potential new storage sites. Further explore their interest in potential joint investments and utilization.
- Depending upon the results of these or future preliminary studies, Oregon may consider joining one or both states in proposing to Congress authorization for a more complete feasibility analysis. Such a feasibility analysis would involve State matching funds.

*Time Frame:* Very long term, could take 10-20 years for completion.

*Budget Needs:* Funding for interstate policy position (see below)

- Develop Oregon institutional capacity and staffing to pursue regional agreements and potential interstate investments in water development projects.

*Summary:* Oregon needs to provide staffing to implement the consensus actions describe in parts III, IV, and V of this Declaration. For 2013, a minimum of one new senior level position should be funded in the OWRD budget to begin building this capacity, and additional support is desirable.

For the longer term, the Governor's Natural Resources office will convene a work group over the interim to detail the appropriate structure and elements of a statewide program of new water storage, conservation, utilization, and instream flow protections and augmentation. That effort will include an advisory board made up of appropriate stakeholders.

*Next steps:*

- Oregon 2013 Legislative session budget approval
- Develop program goals and position description.
- Structured stakeholder discussion through the Governor's Office, to develop the longer-term institutional framework for multi-use water development

*Time Frame:* Short term, should be implementable this next biennium.

*Budget Needs:* Funding for positions

## VI. **Other Options Considered by the Columbia River-Umatilla Solutions Taskforce.**

The *Solutions* Taskforce identified an initial list of 29 different options, trying to be as inclusive as possible, so that any opportunities for mutual gain were considered.

Those options for which there was consensus to move forward are listed above and we recommend focusing our efforts on those options at this time. Other options, listed below, were considered but for various reasons there was not consensus to move forward with them. To keep the focus on the consensus agenda and give it the best chance for success, we jointly agree not to develop or support legislation in the 2013 Legislative Session that would promote spring and summer Columbia River withdrawals, or any of the options listed below.

- Providing access to Columbia River water in spring and summer but only when flows exceed biological target flows for fish.
- Construction of new reservoir on South Fork Umatilla River
- Construction of new reservoir on Bear Creek
- Expansion of Cold Springs Reservoir
- Expansion of McKay Dam and Reservoir
- Managing Columbia River to increase flow in the Spring and Summer
- Additional draw-down of Lake Roosevelt
- Revised Management of Run-of-River Reservoirs, including additional withdrawals in spring and summer
- Evaluate operation of John Day Pool at Minimum Operating Pool, or reduced levels in order to increase velocity of water flow in Spring and Summer
- Washington State large storage site candidates: Crab Creek (at currently proposed footprint), Ninemile Flat, and Goose Lake.
- Washington investment in Oregon Storage Options
- Washington conservation projects
- Washington aquifer storage

**VII. Governance recommendations going forward: How we will go about getting things done.**

We agree on the following institutional framework for how we will go about on-going collaboration, project planning, and implementation of priority solutions. We also believe there are relatively short-term action steps possible that should be followed up immediately to both produce near-term tangible results, and – importantly - also help strengthen collaborative relationships going forward. However, other opportunities may become available, and the consensus options we’ve identified may change as new information becomes available. The identification of these options should not preclude flexibility of these efforts going forward.

- A. Oregon needs to provide staffing to implement the consensus actions describe in parts III, IV, and V of this Declaration. For 2013, a minimum of one new senior level position should be funded in the OWRD budget to begin building this capacity, and additional support is desirable.

- B. For the longer term, the Governor’s Natural Resources office will convene a work group over the interim to detail the appropriate structure and elements of a statewide OWRD program of new water storage, conservation, utilization, and instream flow protections and augmentation . That effort will include an advisory board made up of appropriate stakeholders.
  
- C. The Columbia River-Umatilla Solutions Taskforce may be convened as needed during the 2013 Legislative Session. It will also meet subsequent to the 2013 Legislative session in the early fall of 2013, to review progress on the workplan and consensus options, and revise any agreements as necessary. Once Executive or Legislative action is taken on the recommendations for long-term institutional capacity, it is envisioned the CRUST will be replaced by an advisory group as noted above.
  
- D. Wallowa Dam Oregon Solutions team
  - A newly configured group of stakeholders will be convened to work specifically on the Wallowa Dam project, beginning in early 2013.

**VIII. Budget needed to support the consensus options and governance recommendations (2013-2015).**

- OWRD Staff Position and support for Interstate/Columbia related efforts \$250,000 - \$400,000
  
- Feasibility and Design Work for Storage \$500,000
  - Wallowa Dam
  - Juniper Canyon
  - Other sites as funds are available
  
  - Initially appraisal level work will be completed that will identify any fatal flaws that can put projects on hold or eliminate them from further consideration. Additionally, these appraisal level investigations are intended to analyze elements of the projects to a point that work plans, timelines and cost estimates for comprehensive feasibility work can be prepared and feasibility investigative work can be implemented. Also included will be various construction alternatives, general estimates for cost of the various construction alternatives, and a list of the various elements of the projects that require

comprehensive feasibility analysis. If appraisal work indicates proposed projects warrant additional study, to the extent resources are available feasibility studies will be funded that will provide the information needed for project implementation

- While there will need to be financing mechanisms for ultimate construction of storage options (and potentially other options, the amount, nature, and conditions of this financing have not been agreed upon by the Solutions Task Force.

- Matching funds for Additional Water Conservation \$200,000-\$400,000

### IX. Declaration

This Declaration of Cooperation, while not a binding legal contract, is evidence to and a statement of the good faith and commitment of the undersigned parties. The undersigned parties to this Declaration of Cooperation have, through a collaborative process, agreed and pledge their cooperation to the above findings and actions:



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Governor of Oregon



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Governors Natural Resource Advisor



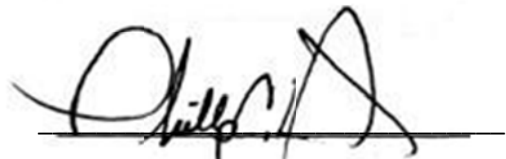
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Umatilla County Commission



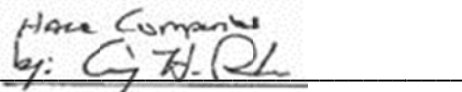
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American Rivers



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Oregon Water Resources Department



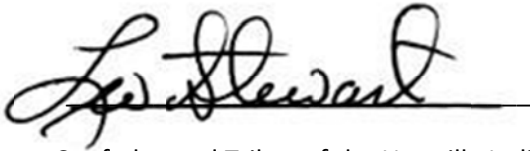
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Hale Companies

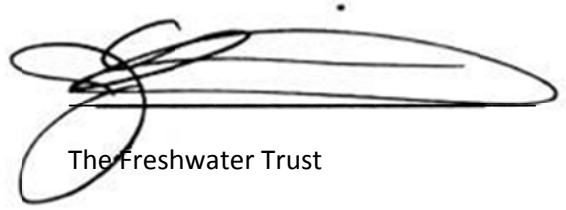


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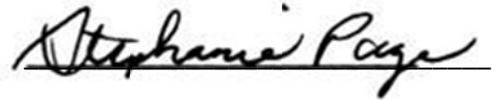
Confederated Tribes of the Umatilla Indian Reservation



The Freshwater Trust



Oregon office of the NW Power and Cons. Council



Oregon Department of Agriculture



Blue Mountain Community College



Oregon Department of Fish and Wildlife



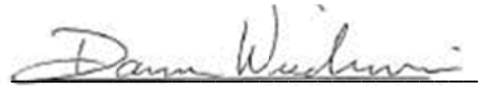
Port of Morrow



OSU College of Agricultural Sciences



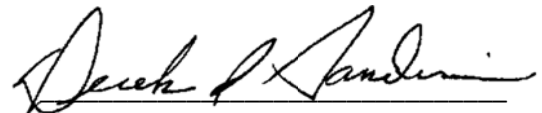
Umatilla Electric Co-op




US Bureau of Reclamation



Umatilla Basin Water Commission



Washington Department of Ecology



Windy River Farms



Water Watch of Oregon