



April 3, 2023

House Committee on Agriculture, Land Use, Natural Resources, and Water
900 Court St. NE
Salem, OR 97301

Re: HB 3365 and -1 amendments – Oppose as *currently* written

Chair Helm, Vice-Chairs Hartman and Owens, and Honorable Members of the Committee:

Thank you for opportunity to provide testimony on HB 3365. Central Oregon LandWatch (“LandWatch”) is an Oregon non-profit, public interest organization of about 700 members. Its offices are located in Bend, Oregon. LandWatch’s mission is to defend and plan for Central Oregon’s livable future, and it has advocated for the preservation of natural resources in Central Oregon for over 30 years.

LandWatch is a member of the Deschutes Basin Water Collaborative (DBWC), a body working to meet the water needs in the Deschutes Basin for agriculture, municipalities and rivers. In 2019, an effort funded by the Bureau of Reclamation and State of Oregon Water Resources Department, and developed in partnership with the DBWC, led to publication of a report on water supply, demand, and management options in the Deschutes Basin. The 2019 study—known as the [Upper Deschutes River Basin Study](#)—outlines broad management strategies to address water shortfalls for agriculture, municipalities and instream needs across the basin; these include water conservation projects (e.g. piping projects, and on-farm infrastructure upgrades), market-based incentives (e.g. water leasing, transfers, and duty reduction), and enhanced or new storage (e.g. relocating existing storage farther downstream and restoring water storage capacity).

LandWatch appreciates that HB 3365 supports the findings of the 2019 Basin Study under Task 7, which evaluated “the potential for market-based approaches to serve as a supply option (i.e. an “alternative”) for meeting water needs in the Deschutes River Basin.”¹ As HB 3365 and the Legislative Assembly astutely recognize, Task 7 identified a substantial opportunity to transfer water for the benefit of both Deschutes Basin agriculture and rivers.

However, HB 3365 needs to be amended if it is to meet the multiple purposes of the DBWC and the 2019 Basin Study, which sought to identify and satisfy the water demands of agriculture, municipalities, and rivers. For example, under Section 2 (3)(a) and (3)(b)(B) of the bill as drafted, it explicitly states that transferred water be used for irrigation, without mention of other water demands in the Basin.

¹ Summit Conservation Strategies. 2017. *Technical Memorandum: LPE Task 7, Market-Based Approaches as a Water Supply Alternative*. Prepared for DBWC, Basin Study Work Group. May 2017. Bend, Oregon.

The bill should be amended to ensure that transferred water is available to all stakeholders (municipalities, agriculture, and rivers/instream) so that the multiple benefits envisioned by the DBWC are supported and can be realized. Under the 2019 Basin Study, water transfers included both farm to farm, and farm to river transfers. In the Deschutes Basin, the flexibility sought for transferring water has centered on transfers of water from senior districts to junior districts, and from Wickiup Reservoir to instream. It is this complete series of transfers that meets the consensus purposes of the DBWC and all involved stakeholders. It is critical to the collaborative work in our basin that transfers achieved for one set of stakeholders are not performed to the detriment of other stakeholders.

LandWatch is also concerned by the bill's lack of both safeguards for the river and direct opportunities for flow enhancement. There are several concepts that should be considered to improve the bill in this regard, including:

- all transfers could provide a 50% share to the river;
- transfers could be administered by a water bank under the auspices of the DBWC, operating under the DBWC's consensus-based charter. This would help to ensure balance in the overall re-purposing of water rights in the Deschutes Basin.

The above bill improvements would support the Legislative Assembly findings outlined in Section 2 that: “(a) It is in the public interest to manage water efficiently and in a coordinated manner **that benefits the environment** and irrigated agriculture. (b) Districts in the Deschutes Basin face unique challenges and **provide unique opportunities to manage water** as described in subsection (2)(a) of this section” (emphasis added). To benefit the environment, and incorporate the findings of the DBWC's 2019 Basin Study, we emphasize again that the unique opportunities in the Deschutes Basin are not exclusive to transferring water for irrigation, and should also explicitly include transfers for rivers and municipalities.

LandWatch appreciates the underlying concepts in HB 3365 that support market-based solutions to water management in the Deschutes Basin. However, LandWatch cannot support HB 3365 and the -1 amendments as drafted unless it is amended to make transferred water available to all stakeholders—including instream; provide critically important safeguards for the river; and provide direct opportunities for flow enhancement.

Sincerely,



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