



DESCHUTES RIVER
CONSERVANCY

April 3, 2023

TO: House Committee on Agriculture, Land Use, Natural Resources, and Water
FROM: Kate Fitzpatrick, Executive Director, Deschutes River Conservancy
RE: Support for HB 3365 -1

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

The Deschutes River Conservancy (DRC) was formed in 1996 by the Confederated Tribes of Warm Springs, irrigation, and environmental interests. The DRC's mission is to restore streamflow and water quality in the Deschutes Basin using collaborative approaches that support the diverse uses of water in the basin. Our board of directors includes irrigation, environmental, and tribal interests, as well as federal, state, and local agencies, and operates by consensus. The DRC and its partners have restored significant flows to our basin's rivers while increasing the reliability of agricultural water rights and operations.

The DRC supports the flexibility that HB 3665-1 affords to meet agricultural and instream needs in the basin.

The DRC has a long-established instream leasing program and has extensively used the state's Allocation of Conserved Water Statute to restore instream flows. Both these tools effectively move water directly from an irrigation district or patron to an instream use, but they do not easily facilitate the movement of water that is required to help the most vulnerable junior water rights holders in the Deschutes *and* to restore critical winter flows in the Upper Deschutes River below the Wickiup Reservoir storage facility, both basin-wide priorities.

As part of the Deschutes Basin Habitat Conservation Plan (HCP), signed in late 2020 by the Deschutes Basin Board of Control member districts along with the City of Prineville, and US Fish and Wildlife Service, the districts are committed to meeting winter flow targets in the Deschutes River between Wickiup Reservoir and the City of Bend to benefit the ESA-listed Oregon spotted frog. To meet these flows, the districts are working together to enable senior water rights made available from the Deschutes River to pass to the most junior irrigation district, in exchange for releases of stored water in Wickiup Reservoir. In short, increased flexibility moving water between irrigation districts facilitates the collective ability to support agriculture and restore instream flows.

The DRC, in partnership with the irrigation districts, started the Deschutes Water Bank Pilot Program in 2021/2022 to test and model this increased flexibility. Willing patrons in Central Oregon Irrigation District (COID) were offered compensation to fallow land and let the amount of water historically delivered to them to pass to North Unit Irrigation District (NUID). In exchange, NUID agreed to increase flows in the Upper Deschutes River the following winter

using the state's instream leasing program. Participating COID lands were monitored to ensure they were fallow, and spills to NUID were tracked at the COID-NUID spill weir. The gage below Wickiup enables tracking of Upper Deschutes River flows. The Pilot successfully demonstrated proof of concept, and it provided valuable lessons on challenges and constraints. The Pilot is being run again in 2022/2023, with greater participation by all the Deschutes irrigation districts.

The goal of HB 3365 is to reduce some of the barriers experienced in the program to-date, and to enable the districts to further scale voluntary market-based transactions as a tool to help meet HCP goals and restore flows while supporting the most vulnerable farmers in the basin.

Specifically,

- HB 3365 removes the fear of potential forfeiture of water rights for those enrolled in the Pilot Program. This was one of the major identified barriers to participation in 2021/22.
- HB 3365 reinforces the ability of districts to move water between districts without the more time-intensive state administrative process associated with temporary transfers.
- HB 3365 allows a water user to use a part of the water right appurtenant to their ground while mobilizing the remainder of the historically-used right to solve critical basin problems, *when the water use can be accurately measured and accounted for*. In our experience in the Deschutes Basin, this approach has significant volumetric potential to solve problems for farmers and rivers.

Partners in the Deschutes Basin are undertaking a remarkably coordinated and collaborative approach to support agriculture and increase instream flows in the context of extended and extreme drought. HB 3365 allows partners to test out *temporary* and *voluntary* strategies to accelerate the pace and scale of this work. We believe that pilot programs like this are critical and necessary to successfully respond to the water challenges in front of us. The DRC is committed to accountability measures necessary to support this innovation, and we hope that the State sees this as a measured and time-enveloped opportunity to learn and innovate in a critical time.

Thank you for providing an opportunity to provide input. I would be happy to provide any additional information or answer questions.

Sincerely,

Kate Fitzpatrick
Executive Director