



Deschutes Basin Board of Control



April 3, 2023

Re: House Bill 3365-1

Chair Helm, Vice-Chairs Owens and Hartman, and Members of the House Agriculture, Land Use, Natural Resources, and Water Committee:

The Deschutes Basin Board of Control (DBBC) is an organization made up of eight irrigation districts in the Deschutes Basin, and includes Arnold Irrigation District, Central Oregon Irrigation District, Lone Pine Irrigation District, North Unit Irrigation District, Ochoco Irrigation District, Swalley Irrigation District, Three Sisters Irrigation District, and Tumalo Irrigation District (Districts). Combined, these Districts store and deliver irrigation water to approximately 150,000 acres in central Oregon. We submit these written comments in favor of House Bill 3365-1.

In late 2020, the Districts along with the City of Prineville received final approval from the U.S. Fish and Wildlife Service for the Deschutes Basin Habitat Conservation Plan (HCP). This plan was the result of more than a decade of scientific studies, years of discussions with basin stakeholders, and detailed negotiations with the U.S. Fish and Wildlife Service. Covering the next 30 years of water management by the Districts, the HCP will increase instream flows and enhance habitat in the Deschutes River and its tributaries for several species listed as threatened under the federal Endangered Species Act, including Mid-Columbia River steelhead, bull trout, and Oregon spotted frog.

The HCP includes many conservation measures aimed at improving habitat for the listed species, but one of the primary efforts is to increase instream flows in the Deschutes River between Wickiup Reservoir and the City of Bend during the winter. These flows will help to keep wetland areas and other critical habitat “wetted up” during the winter, which will help Oregon spotted frogs that overwinter in these areas.

In order to make the objective of increasing instream flows a reality, the Districts have partnered with one another to look for ways to conserve water where it is most cost-effective to do so, and then provide the benefits of these conservation efforts where they are needed the most. We’ve learned from our work on the HCP and related watershed planning efforts that some districts have cost-effective

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DBBC Member Districts

*Arnold Irrigation District • Central Oregon Irrigation District • Lone Pine Irrigation District • North Unit Irrigation District
Ochoco Irrigation District • Swalley Irrigation District • Three Sisters Irrigation District • Tumalo Irrigation District
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opportunities to conserve or otherwise make water available during the irrigation season, while other districts are better suited for utilizing conserved water as a substitute for storage water, which can then be made available to supplement winter flows in the Deschutes River.

As the Districts have begun implementing the HCP, we've experienced some challenges in trying to move water efficiently and effectively between Districts. The need for, and the resulting benefits of, moving water between Districts has become all the more urgent given the devastating effects of the recent multi-year drought being experienced in our basin.

As a pilot program, HB 3365-1 is intended to help explore how best to address some of these challenges. The bill expands what the Deschutes Water Bank Pilot Program is already doing, by authorizing and enabling certain types of temporary water right transfers that will benefit the Deschutes River and the habitat it provides to listed species.

In particular, we have seen instances in which a water user in one District may have an interest in reducing their water use, along with a further interest in seeing the remainder of their water use made available to water users in another District. As one example, it could be that a water user is willing to irrigate his or her land early in the season, and then see the remaining water used on lands in another District later in the season. And if that late-season water could replace stored water that would otherwise be used for the late-season irrigation, that stored water can then be held until winter, released at that time, and left instream in the Deschutes River to benefit Oregon spotted frogs.

This example is exactly the type of water transaction that HB 3365-1 would authorize on a pilot basis, where the Deschutes River Conservancy (DRC) would oversee the temporary change to the water right and the temporary movement of water. We would underscore that these transactions are voluntary and will only occur with the requisite District and landowner agreements.

Finally, we want to acknowledge that there have been questions around exactly how the DRC will oversee and handle transactions that are occurring through the Deschutes Water Bank Pilot Program. This Water Bank Pilot Program is funded through the Oregon Watershed Enhancement Board grant entitled "Drought Resilience Through Water Reallocation and Transactions in the Deschutes Basin," and the U.S. Bureau of Reclamation WaterSmart grant entitled "Establishment of the Central Oregon Water Bank to Increase Drought Resiliency in the Deschutes River Basin." Those grant authorizations help reinforce the parameters for how the bank is to function, and they appropriately leave many of the details to the DRC. Moreover, as we understand the program, each individual transaction may involve different considerations and factors, which will help to determine the specific terms and conditions of each transaction, beyond the standard requirements contained in HB 3365-1. (Those standard requirements include water measurement, fish screening, water right mapping, and other assurances.) The DBBC Districts have a long and productive working relationship with the DRC, and we are confident

that the DRC is the appropriate entity to oversee and manage transactions under HB 3365-1, and we look forward to continuing to work with them.

In sum, House Bill 3365-1 provides some desperately needed flexibility when it comes to the management of district water in the Deschutes Basin, while also ensuring accountability as part of that management. The DBBC strongly believes that if we are to succeed in getting flows up for fish and wildlife while also keeping our agricultural base intact, then we will need more flexible and innovative water management tools like those provided in HB 3365-1.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'CH', with a large circular flourish at the end.

Craig Horrell

Chair, Deschutes Basin Board of Control