



Via Electronic Submission to Senate Committee on Natural Resources and Wildfire

Senator Jeff Golden, Chair
Senator Todd Nash, Vice-Chair
Senate Committee on Natural Resources
State Capital
Salem, OR 97301

RE: Opposition to SB 427 (A Direct Threat to Collaboration and Compromise)

Dear Chair Golden, Vice-Chair Nash and Members of the Committee:

The Northeast Oregon Water Association (NOWA) would like to thank the Senate Committee on Natural Resources and Wildfire for hearing the difficult but important discussions regarding water and water policy. NOWA is opposed to SB 427 for several reasons. Many may argue that SB 427 provides “minor” changes to the transfer statutes, but the hard reality is that the deference this bill will require OWRD to give to NGO’s and other agencies in decision making, and the sue and settle nature at which this will most likely be used in our region is anything but minor.

About NOWA

The Northeast Oregon Water Association (NOWA) is a result based non-profit support organization to the natural resource-based economy of the Mid-Columbia region of Northeast Oregon. We represent solutions not special interests or industries for the benefit of all needs in our region. Our organization includes landowners of over 350,000 acres of the most highly productive, irrigated food producing farmland in the world, as well as the counties, cities, ports, special districts, and private businesses that generate and support our value-added agricultural output that now contributes not only food but over \$2 billion annually to the region and State of Oregon. A sustainable, drought & climate-change resilient, conjunctively managed water supply program is critical to sustainability of our region and the quality of life of all our current and future generations.

NOWA formed in 2013, shortly after memorialization of the Columbia River-Umatilla Solutions Task Force (CRUST) Declaration of Cooperation was signed by all 21 members representing diverse interests in the Mid-Columbia region. NOWA’s primary goal was to establish and maintain the local institutional capacity needed to ensure that the short and long-term recommendations of the CRUST were not forgotten, and that the Umatilla Basin would finally begin to move forward on long-term water sustainability. NOWA is focused on 4 key milestones to achieve water sustainability:



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- 1) Optimization of existing water supplies and development of a short and long-term mitigation program on the Columbia River, through mitigation projects, to meet 150,000 acre-feet of Columbia River demand.
- 2) Development of three Columbia River pipelines sized to both maintain irrigation in the irreplaceable high-value irrigated region and relieve irrigation pumping pressure on the 4 Critical Groundwater Areas.
- 3) Continued testing and implementation of aquifer recharge where feasible.
- 4) Development of a groundwater savings and banking program to ensure stable and recovering groundwater levels for current and future generations.

NOWA and the entire CRUST region has committed to this effort and the solutions that are to materialize because of it. We have not dropped a one-off bill impacting the status quo on the Columbia River since the CRUST DOC was signed. We have invested over \$200 million, in addition to the State of Oregon investments of +/- \$20 million in infrastructure. We dug into the data to better inform how we can optimize the water supplies available and only seek the minimal amount of Columbia River water necessary to meet multi-generational needs while taking pressures off the Umatilla River watershed and native groundwater. We have done everything to date under State law that was in place when the CRUST formed but have used the effort to better inform them which potential changes are needed, when and why.

The “CRUST” region is already managed collaboratively and appropriately

The tributary watershed of the CRUST region is the Umatilla River. The Umatilla River watershed has a long and complex history of water management and water regulation. That regulation and management became even more complex, but manageable, during the late 1980’s and early 1990’s when collaboration and negotiations between irrigation districts and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) resulted in the passage and implementation of the Umatilla Basin Exchange Project. That project is still considered one of the most successful fishery restoration projects implemented by the United States Bureau of Reclamation and it was implemented in a fashion that did no harm to the regional value-added natural resource-based economy.

The management of the Umatilla River system is not perfect, is place-based and complex, but it has worked for the junior water rights holders, fishery interests and senior water rights holders on the system for several years. The system is also the baseline for the on-going negotiations between the Federal Government, districts, State and CTUIR on the on-going CTUIR Tribal Water Rights settlement efforts, which NOWA and many of its members have expressed support in, in the past, completing.

Great care has been taken by Umatilla Basin stakeholders and, until recently OWRD, not to change laws or to alter Umatilla River water management efforts to ensure harmony amongst users and a continued baseline for on-going negotiations. This management system includes, in addition to other place-based management systems, temporary transfers, and transfers in general, to move water around efficiently to meet annual needs of the diverse and complex water use portfolio of the Basin.

SB 427 will trade management certainty and continued progress on a multi-decade sustainability effort for uncertainty through another vaguely defined public interest review process, with minimal detail on

how it is to be implemented. SB 427 will give outside interests, deference state agencies and third parties a way to alter, disrupt or potentially kill the trust and progress made between the regional stakeholders, CTUIR and State that has led to the “collaboration over litigation” progress made in our region to date.

SB 427 was not developed in Collaborative Fashion and jeopardizes peace on the Columbia, completion of the CRUST recommendations and groundwater recovery goals

In 2012, following a number of contentious battles in the Oregon State Capital, the members that formed NOWA signed onto the CRUST Declaration of Cooperation along with the State of Oregon and some of the proponents of SB 427. The underlying promise was that our region, the state and NGO interests, primarily conservation interests, would attempt to work together to develop and implement measures to secure Columbia River water supplies and optimize available water supplies to maintain and enhance the value-added natural resource-based economy while at the same time doing no harm to mainstem fish needs and recovering over-stressed aquifer and tributary systems.

To do that and do it in a collaborative fashion, it was mutually recognized that the groups would attempt to work together and would not submit one-off legislative packages that could damage relationships, or potentially jeopardize the current management, optimization and use of existing Columbia River water supplies so that a baseline of need and opportunity could be worked upon and utilized in the development of a permanent programmatic solution. NOWA has refrained from introducing one-off policy legislation for several years even though legislative fixes have been identified as necessary. We have secured funding for a “CRUST II” effort to utilize lessons learned, and information gleaned from project development, Columbia River water use data and groundwater savings efforts since 2012. NOWA and our members have requested executive action by both Governor Brown and Governor Kotek to convene CRUST II and finalize the collaborative process to memorialize a programmatic solution to problems that originated over 70 years ago.

The regional boundaries of this solution encompass roughly 50 river miles of the Columbia River and existing diversion points, all with NOAA approved fish screens. The average daily flow of the Columbia River is approximately 186,000 cubic-feet per Second (186,000 basketballs a second for visual reference). The CRUST region of NOWA’s focus only has about 1,400 cubic-feet per second (1,400 basketballs a second) of divertible water for use on any given day. For the past 50 years, and continuing today, the same rate of water diverted prior to the 1994 moratorium on new Columbia River water rights is used. This max diversion rate has been supplemented with the mitigation water rights negotiated and secured by NOWA, and now administered by the Mid-Columbia Water Commission, to form one block of water that is co-managed and moved around annually to optimize production of the water available while minimizing Columbia River need and saving precious native groundwater. The water is all accounted for within state habitat plans and water use models on the Columbia River system. NOWA members share this water annually and have proven with efficiency, technology, management by public entity, and flexibility that a small amount of water can be stretched a long way in meeting groundwater recovery and economic goals of the state.

NOWA and the Mid-Columbia Water Commission were not consulted on SB 427. SB 427 directly impacts the one and only tool our region has to move Columbia River water around on an annual basis

and in a responsible manner until the final programmatic boundaries of the Columbia River solution can be memorialized. We, first, question why the Columbia River mainstem would be included in this bill when our regional boundary of use has been publicly vetted, our pre-1994 water rights are of minimal rate within the Columbia River system and our post 1994 water rights are all mitigated. More importantly we question that If bills like this are allowed to pass even after commitments were made, under a state facilitated planning effort, not to change state law impacting Columbia River management, what does that say for the likelihood of any of the place-based planning investments of the state making through the multi-biennial implementation stages. If we are going to encourage place-based planning and commitments of all parties to commit to the plan, should we also not be discouraging one-off bills that will kill multi-biennial implementation of such plans.

SB 427 Is unnecessary, kills trust and puts special interests over regional collaborative planning, implementation and management

Bottom line is that SB 427 will result in nothing other than court cases and an NGO water grab, through sue and settle processes, in the CRUST region of Oregon. HB 427 was not collaborated upon or coordinated with the institutional residents and members of the CRUST effort of the Basin, or in the spirit of the CRUST DOC and the decades of collaboration that lead the region to the CRUST table to begin with. SB 427 creates a level of uncertainty like the arguments and disagreements in the region of the 70's and 80's that efforts from the 1990's to today have sought to rectify. SB 427 undermines continuing collaboration and negotiation between all parties in the CRUST region and develops a level of uncertainty and non-resident, third-party standing that will do nothing for fish and water sustainability but everything to convert the basin to a litigation over collaboration basin. That is not helpful to fish, families, groundwater restoration, bi-sovereign harmony between tribal and non-tribal water uses, the state budget or future generations.

We urge the Senate Committee on Natural Resources and Wildfire to vote no on SB 427.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.R. Cook', with a stylized flourish at the end.

J.R. Cook

Founder/Director