

I worked on Umatilla Basin water allocation and management issues for much of my thirty five year career as an attorney in Oregon, both in private practice and as an attorney for a statewide non-profit. I oppose HB 4006 for many reasons.

HB 4006 Discards Negotiated Solutions. This bill apparently signals the end or significant erosion of the so called Columbia River Umatilla Solutions Team (CRUST) protocols that attempted to put an end to exactly the type of legislation that is HB 4006. The CRUST protocols attempted to put an end to the regular and repeated legislative attempts by Umatilla interests to either obtain direct allocations from the Columbia River or to secure legislative exceptions to Oregon's water laws that benefited Umatilla Basin water users alone and at the expense of fish, particularly salmonids in the Columbia River and basin tributaries.

This attempt to carve out an exemption for Umatilla water users to Oregon's transfer laws and regular review of transfers, is a type of statutory change that would potentially harm fish that the CRUST protocols sought to stop. While HB 4006 does not change the "rate" of existing Columbia River water rights (i.e., how quickly water is diverted), the bill allows use of water on unlimited acreage and is silent as to "duty" (i.e., how much is applied in the course of a season), which could significantly increase the "quantity" or "volume" of water diverted from the Columbia River, directly contrary to the needs of salmon and steelhead in the Columbia.

The bill also upends state water management of Columbia River water rights. HB 4006 prohibits the state from managing the public's water used under Columbia River water rights beyond their diversion point on the Columbia, which hamstrings the state's ability to manage the actual water use. There is no reason Umatilla Basin irrigators should receive a special carve out under Oregon's water laws.

No Recognition of Limits. Umatilla Basin irrigators and other out of stream water users in the area are apparently never satisfied. Basin irrigators apparently believe that every acre below 900 feet above sea level in the basin should be irrigated. There is not water for that level of irrigation in the basin without compromising streamflows needed by salmon within and transiting the basin in the Columbia or increasing already large deficits in multiple aquifers in the region. New data centers are an additive demand in an already heavily overallocated basin. Massive new agricultural developments are regularly proposed in the region.

Extractive water interests in the basin move from deal to deal. When a deal becomes inconvenient, they just move on and demand special exceptions or changes in the law that would allow them to extract more water. HB 4006 is yet another example that follows so many such bills and campaigns it is hard to recall them all. The Oregon Oasis effort which really played out over many legislative sessions, is one such example. "Give us 400,000 acre feet directly from the Columbia" was the thrust of that set of legislative campaigns by basin interests seeking more water.

There was the effort around HB 3369. This bill, which I was involved in negotiating, was intended to solve some of the issues around the constant demand for more water in the basin. But when it became inconvenient to work within the framework set up by the bill – and negotiated by basin irrigators – it was of course abandoned.

And now it appears the CRUST agreements are being abandoned as well.

Groundwater Pollution Risks. I am also concerned about the effect of increased agriculture on the groundwater quality of the Lower Umatilla Basin Ground Water Management Area, as increased irrigation - a clear result of this bill - risks increased nitrate inputs into groundwater. HB 4006 allows a significant increase in irrigated agriculture in the Lower Umatilla Basin Groundwater Management Area (LUBGWMA). This result risks undermining efforts to decrease nitrate inputs into groundwater in the basin that are harmful to human health.

Thank you for considering this testimony on HB 4006.

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