

**BRYANT
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RE: Deschutes Basin Aquifer Recharge

Dear Chair Clem and Committee Members:

I am Neil Bryant and I have practiced law in Central Oregon for 44 years. I served in the Oregon State Senate from 1993 to 2001. During my tenure, my principal responsibility was the Senate Judiciary Committee, but I also served on Water and Land Use, Revenue, Rules, and Ways and Means at different times.

I represent Avion Water Company and Deschutes Valley Water District (“Applicants”). Applicants filed for an aquifer recharge permit on December 5, 2000 and a limited license with the Oregon Water Resources Department (“OWRD”) on January 12, 2009, to divert water from the Deschutes River for purposes of testing a proposed aquifer recharge project. The project only operates during the late fall and winter when there is water in the Deschutes River that is unappropriated for other uses. The water is unappropriated because all of the minimum stream flows and other environmental requirements are met. The purpose was to determine feasibility of recharge during winter when water is available for recharge purposes. Simply put, water is diverted by the Tumalo Irrigation District (“TID”), conveyed through the TID Bend Feed Canal to the TID Tumalo Reservoir. The water is allowed to seep into the ground water for purposes of recharge. The Reservoir leaks like a sieve.

Dave Newton of Newton Consultants, Inc., will describe scientific aspects of the project.

My involvement with mitigation rules actually began in 1998 after the publication of U.S. Geological Survey that established a hydraulic connection between ground water and surface water in the Deschutes Basin. OWRD, through its director, Martha Pagel, convened a Deschutes Basin user group to discuss and formulate ideas of how to address future growth and mitigation, in the Basin. I was part of the group. Ultimately, OWRD approved mitigation rules in 2002. These rules were challenged by Water Watch. The Oregon Court of Appeals agreed with Water Watch. As a result, the Oregon Legislature passed HB 2184 which allowed OWRD to establish mitigation rules. (ORS 537.746) In 2005, HB3494 was passed requiring a report from OWRD concerning the mitigation program.

No one seriously challenges the benefits of aquifer recharge using excess water in the Deschutes Basin. Otherwise, the excess water flows to the Columbia. Recharge replenishes the aquifer, the springs, the river and can provide some flood control to Tumalo and other areas.

The challenge is obtaining mitigation credits and having an economic benefit for the cost of recharge. Currently, it is not possible to obtain mitigation credits in the Deschutes Basin. Although OWRD rules encourages recharge, OWRD rules do not allow mitigation credits for this project without a rule change.

Avion is a private water company that supplies domestic and irrigation water to approximately 12,000 hookups in Deschutes County. DVW is a public water district that provides domestic water to the cities of Culver, Madras, and Metolius. Water is supplied to a population of approximately 14,500 persons over a 260-square mile service area. Both have pursued aquifer recharge because both will have future needs for additional wells and permanent mitigation credits. Likewise, other municipalities in the Basin and private entities will need permanent mitigation credits.

In the past, some irrigation districts provided credits by drying up farmland and reducing their water rights. In general, irrigation districts are no longer willing to remove water from agricultural land. Districts want to protect their irrigation base and water rights. There are very few permanent mitigation projects or credits available and permanent credits are very expensive.

The demand for water and mitigation stopped during the recession. Today the demand is increasing. Aquifer recharge offers a very good option. The applicants will continue to work with interest groups within the Deschutes Basin, including the Basin Study Work Group (BSWG).

I am happy to answer any questions.

Sincerely,



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