



**Via Electronic Submission to House Committee on**

March 23, 2023

Representative Ken Helm, Chair

Representative Annessa Hartman, Vice-Chair

Representative Mark Owens, Vice-Chair

House Committee on Agriculture, Land Use, Natural Resources and Water

State Capital

Salem, OR 97301

RE: HB 3368 (Concerns and Request for Further Amendments)

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

The Northeast Oregon Water Association (NOWA) would like to thank the House Committee on Agriculture, Land Use, Natural Resources and Water for continuing to hear complex bills highlighting the need to build a more proactive approach to water management solutions in Oregon. NOWA appreciates the outreach and response to concerns to date with HB 3368 since the Bill was introduced, but feel that the blanket, statewide nature of this bill should have been vetted with regional stakeholders for a number of months prior to session to address regional concerns and clarify intended purpose(s). More importantly, this bill directly jeopardizes the forward momentum and trust built in our basin to finally see multi-decades old negotiations through towards a multi-generational water supply solution. We respectfully request that this bill not move forward until our region is exempted out of this requirement.

NOWA still has significant concerns with some of the uncertainties of the language of HB 3368 and how those uncertainties may further complicate an already complex and cumbersome list of solutions to our regional water sustainability efforts. We do not believe that these concerns can be addressed this session. Should the Committee wish to continue to work this bill and amend this bill to fit needs of other areas of the state, we are willing to participate in the amendment process to ensure that those amendments include language to exclude the regional effort of the Umatilla Basin/Mid-Columbia region. Lacking amendments to exclude our region, we feel our region will be harmed by this this bill and the uncertainties that will arise from agency interpretation of the language and its implementation.

Our general concerns include:

1. General concern over prioritization of scarce public resources and if assessments are a priority in most of the state or if investments in water sustainability implementation is a higher priority at a regional or statewide level (i.e. how will the funding needed to complete this package be weighed against the backlog of needed investments in water projects and water sustainability needs already documented)



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2. Blanket requirement statewide to complete all basin assessments will divert scarce resources and attention in some basins to more study rather than prioritizing implementation in basins that are already past the assessment stage (i.e. if the focus is on place based planning & place based implementation and place based efforts do not highlight a need for a new assessment than is this bill in alignment with the place based planning and implementation goals of the State).
3. Lack of direction to the agencies to consolidate data sets and establish where data gaps exist rather than generating new data generation requirements (i.e. in some regions such as the Umatilla Basin/Mid-C Region there is significant duplication of data and double to triple reporting of water use on the same acre. Efforts need to be made to consolidate the data sets based upon the intended need for the data rather than continue to generate data just for the sake of generating data).
4. Lack of acknowledgement of basins that have completed assessments and invested significant resources into implementation of solutions, and lack of clarity in the bill on how OWRD would be required to highlight barriers and constraints to solutions rather than just assess use/demand.
5. The Bill is focused on Basins rather than watersheds limiting efforts to assess how large watersheds with multiple tributaries can work together for both mainstem and tributary benefit (e.g. the Umatilla Basin's primary solutions involve relieving pressures on over-appropriated ground and surface water supplies of the Umatilla River Basin in exchange for a small amount of Columbia River water for direct supply and recharge. The Columbia River is not factored into the Umatilla Basin Plan and would not appear to be factored into a "basin assessment" under HB 3368). This is a concern as it might silo efforts rather than encourage holistic solutions on a watershed scale.
6. No clear indication of how bi-state or bi-sovereign managed basins would be assessed or how Oregon's assessment would be coordinated or utilized in a bi-state or bi-sovereign managed system.

In addition to our general concerns, our primary concern is that the Mid-Columbia Region of Oregon between the mouth of Willow Creek and Wallula Gap has expended millions in resources over 4 decades to build a collaborative game plan towards a water sustainability solution that can benefit multiple future generations. We are in a position where focus needs to be placed on agency and water user commitment and accountability tied to the key components of the multi-biennial solution rather than on additional assessments. Any further delays could result in missed opportunities and broken promises for the various stakeholders that have invested hundreds of millions of public and private resources on a consistent set of deliverables. We are concerned that, if not pre-empted out of this assessment requirement, we will be taking steps backwards rather than forwards.

### **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 over \$2 billion annually to the region and State of Oregon. A sustainable, drought and 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 and build environmental wealth within the Mid-Columbia region of Oregon:

- 1) Development of a mainstem Columbia River mitigation program above John Day Dam that does no harm to the Columbia River and promotes net gain, through mitigation projects, to meet 150,000 acre-feet of Columbia River demand.
- 2) Development of three Columbia River pipelines and optimization of existing and mitigated Columbia River water rights (including water recycling and recharge) to maintain the land base, incent multiple use of water molecules, relieve annual irrigation pumping pressure on the 4 Critical Groundwater Areas and native groundwater in general, and restore ecologic function in the Umatilla Basin where possible.
- 3) Continued testing and implementation of aquifer recharge where feasible to restore aquifers to ensure multi-generational drought and climate resiliency in our region as well as improvement to regional groundwater quality.
- 4) Development of a regional groundwater savings and banking program to ensure stable and recovering groundwater levels for current and future generations and optimized use of those recovering aquifers for specific consumptive and non-consumptive priorities of the region.

### **Planning Efforts and Data in the Mid-Columbia Region of Oregon**

The Mid-Columbia region of Oregon is one of the most heavily studied and heavily regulated water-use regions in Oregon. Attached to this testimony are various bibliographies and studies to document the amount of data available to state agencies, and the general public, documenting how much water is available, what water sources are over-appropriated, how water is used and what is needed for sustainability.

In addition to studies, the Mid-Columbia region and Umatilla Basin have completed numerous plans, spanning the last three decades, relating to short and long-term sustainability. All these plans were completed prior to the state-initiated process of "Place-Based Planning." The Umatilla Basin planning efforts were instrumental in highlighting the need for regionalized planning in Oregon to aid in Oregon water policy reform. Three key planning/coordination efforts in the region that continue to guide strategies, projects and progress include:

- 1) 1986 Umatilla Basin Groundwater Task Force Report to the Governor
- 2) 2008 Umatilla Sub-Basin 2050 Water Management Plan
- 3) 2013 Columbia River-Umatilla Solutions Task Force (CRUST) Declaration of Cooperation

The three planning processes were time, data, and resource heavy. The efforts were collaborative and included a significant number of individuals representing a variety of interests. All three efforts highlighted the need to conjunctively manage surface and groundwater resources in a manner to ensure solutions to legacy groundwater quality and quantity declines as well as long-term water sustainability. All three plans have led to the 4 goals of NOWA and also highlight the need for memorialized action.

### **Do No Harm**

Ever since negotiations prior to the passage of the 1988 Umatilla Basin Exchange act lead by Senator Mark Hatfield, our regional stakeholders have adopted the mantra of "due no harm." The Confederated Tribes of the Umatilla Indian Reservation have committed to that and worked with various districts and honored that throughout the multi-decade water rights settlement and water exchange efforts between the Columbia River and native water supplies. Private water users have honored that effort as they have attempted to fix their problems under current law without harming other basins' efforts throughout the state. Our local governments (counties and cities) and industry have honored that by attempting to share water supplies and "borrow" ag water supplies in exchange for giving it back through opportunities of reuse and recycling. Our groundwater users have honored that by committing to efforts (not yet memorialized or protected by the state) to minimize pumping of native groundwater supplies and protect those saved supplies to promote recovery of critical groundwater areas around the region.

We have drafted and supported legislative efforts that, where possible, move our basin forward without harming other regions of the state. We understand that some basins are not as far along in the sustainability puzzle as our region. That said, we should at a minimum, receive the same treatment from the state. We should not be harmed by legislation targeting those basins that may be behind our decades old sustainability efforts. We do not need another assessment, we need action. Requiring our region to take a step back and complete another assessment, or obligating our region to investments in an assessment vs. action harms our effort and potentially jeopardizes our opportunity for successful implementation that meets our do no harm mantra. This bill will harm us and will set us back and we are not supportive of any efforts that further complicate an already extremely complex process and outcome.

#### **The CURRENT opportunity at hand:**

- 1) Over \$8 Billion in federal funding for water resiliency and storage in the west is authorized by the federal infrastructure package.
- 2) A Basin that has consolidated its operations and management structure to speak with one voice and commit to a final list of needs (NOWA and Mid-Columbia Water Commission)
- 3) A Basin willing to centralize private Columbia River diversions and water right owners into one plan and one entity to coordinate with the requested CTUIR Tribal Water Rights Settlement Liaison package and positions as well as optimize the water supplies we have available for multi-beneficial uses.
- 4) A Basin that monitors and has more data than the state knows what to do with regarding annual water use, water demands, aquifer recovery scenarios, municipal/ag water sharing scenarios and environmental restoration/groundwater quality remediation needs.
- 5) A Basin that has become so efficient that ag leaders from around the world visit to tour projects and understand how they can implement the same efficiency practices on over 200 different crop varieties around the world in different soil types and different climactic conditions
- 6) A Region that shares water between municipalities, rural industry and agriculture rather than fights over it (a region that recycles most of the groundwater and surface water molecule used for consumptive use multiple times after initial diversion)
- 7) A region ready to recover groundwater aquifer quality and quantity and protect those benefits for future generations
- 8) A region where funding requests are crisp and targeted to finalize a list of needs through a formal final vetting process (CRUST II funding authorized by the Oregon Legislature in 2021)
- 9) A region preparing to support a package within the 2023 GRB to establish a CTUIR Tribal Water Rights Settlement Liaison position/effort to coordinate tribal settlement negotiations with non-tribal water use interests in the region.
- 10) A targeted list of pilot projects for recharge and groundwater banking
- 11) A basin that essentially manages itself and requires little assistance annually from the enforcement side of OWRD or intervention of watermaster regulation on the water sources of the basin.

#### **Conclusion**

We are a region that has done what has been asked of us under current law, and where necessary in minimizing impacts to the rest of the state when minor changes to water law are necessary. The Mid-C region of Oregon, including the Umatilla Basin and Columbia River between the mouth of Willow Creek and the Wallula Gap is a region where a fix to water sustainability is real, measurable and ready. NOWA and our partners & stakeholders are committed to memorializing our list of solutions, supporting key priorities such as recharge testing, existing data consolidation, CRUST II & the CTUIR tribal settlement liaison. We appreciate the Committee's interest in discussing HB 3368 but ask that you respect our efforts and pathway and remove our region from the bill. Allow us to utilize our current assessments that have set the table and allow us to capitalize on the decades of data, investment and collaboration rather than committing us to a new process and new requirement that may set us back rather than memorialize a pathway forward.

While assessments may be a priority of some other place-based planning efforts, they are not a priority of our place-based list of solutions.

Thank you for the opportunity to express our concerns on HB 3368 and for your consideration of pre-empting the Mid-C region of the Oregon, including the Umatilla Basin out of any additional assessment requirements.

Sincerely,

ELECTRONIC SIGNATURE: J.R. COOK

J.R. Cook  
Director

Attachments: CRUST Declaration of Cooperation  
1986 Umatilla Basin Groundwater Task Force Report to the Governor  
Umatilla Sub-Basin 2050 Water Management Plan  
Umatilla Basin Data Synthesis and Summary  
Water Resources Status, A Study of Water Resources Availability and Demand