



DESCHUTES RIVER
CONSERVANCY

April 1, 2025

To: The House Committee on Agriculture, Land Use, Natural Resources and Water

RE: HB 2803 – Proposed 135% increase to water transaction fees

Co-Chairs Helm and Owens, Vice-Chair Finger McDonald and Members of the Committee:

Thank you for the opportunity to provide testimony on HB 2803. We are writing to express concerns about the 135% increase on water rights transactions that contribute to instream flow restoration, and have two suggestions for consideration.

The Deschutes River Conservancy (DRC) is a 501(c)3 non-profit based in Bend, Oregon with a mission to restore streamflow and improve water quality in the Deschutes Basin. The DRC was formed by the Confederated Tribes of Warm Springs, irrigation, and environmental interests in 1996. Using a coordinated, collaborative, and voluntary approach, together with our partners we have restored over 350 cubic feet per second (cfs) to basin rivers while increasing the reliability of agriculture water rights and operations, and water supply for cities. We have accomplished this through conservation, market-based incentives, collaborative partnerships, and innovative programs- we are one of the heaviest users of instream transactions programs in the state.

The DRC would like to express our appreciation and support for and the hard-working staff of OWRD who diligently process transactions. We recognize that OWRD is an underfunded and yet essential Department, and we appreciate the need to increase fees to help maintain staff who process all types of applications. However, we are concerned about the 135% fee increase extending to streamflow restoration transactions, whether instream leases, transfers, or use of the Allocation of Conserved Water Act.

The majority of the work we do at the DRC stems from a legacy of over-appropriating rivers over a century ago, when instream water was not considered beneficial use of the water resource. The DRC uses voluntary and market-based methods to help move water from out of stream uses back to the broader public uses appreciated by having healthy and thriving streams. With no new water rights to be issued in our basin, the method of redistributing water, including to public instream uses, is to use the transfer, conserved water and lease processes.

While other water users submitting water rights transactions are often using a public resource for private revenue (ex. farming or manufacturing, or in the case of municipal uses, have the ability to pass fees onto consumers), streams and rivers rely largely on non-profit organizations groups reliant on grant funds and who are contributing to meeting the state's goals of meeting instream and out of stream water needs. The fee system should differentiate between these transactions.

As a streamflow restoration practitioner, our highest concern is around increased fees related to the voluntary instream leasing program. The iconic Deschutes River downstream of Bend has flow during the irrigation season solely due to instream programs and associated applications. Up to 25% of this flow is due to the annual instream leasing program. Other streams in the Deschutes Basin and across the state have similar scenarios. The DRC raises funds to pay \$18-20,000 annually for instream leases and to offer small payments to program participants. An increase of 135% would increase the cost of leasing associated with state fees to over \$42,000 – with the unfavorable potential to significantly impact voluntary participation in the instream lease program. Because this is an annual program, these fees re-occur every year, greatly raising the costs of fundraising for and running the most successful and currently cost-effective instream leasing program in the state.

We appreciated the state's efforts to convene a transfers fees working group this last year. One of the proposals discussed included tiered water rights transactions fees based on factors including the complexity of the transaction. For example, relatively simple and temporary transactions like an instream lease would fall into a lower fee category as opposed to a complex transaction like a change in location of storage. We urge the state to either:

- Exempt instream flow transactions from the rate increases, or;
- Adopt a tiered structure where less complex, temporary, and often reoccurring transactions like the instream leasing program are excluded.

At a more fundamental level, all natural resources agencies access less than 3% of the General Fund. Water is instrumental to the success of Oregon agriculture, industry, communities, and the environment. OWRD is a department that should be adequately funded. With the waters of the state essentially fully allocated, and with more regular drought years and increasing demands, the ability to measure, regulate, and to move water around becomes increasingly important. Adequate General Fund support to such a critical Department is a necessary step for a resilient water future.

Sincerely,

Kate Fitzpatrick
Executive Director