



# Oregon

Kate Brown, Governor

## Water Resources Department

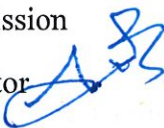
North Mall Office Building  
725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

### MEMORANDUM

**TO:** Water Resources Commission  
**FROM:** Thomas M. Byler, Director   
**SUBJECT:** Agenda Item J, February 22, 2019 presenting to Commission  
Water Resources Commission Meeting

#### Mitigation Bank Charter

#### I. Introduction

During this action item the Commission will be asked to approve a mitigation bank charter for Arnold Irrigation District to operate under the Deschutes Basin Ground Water Mitigation Program. The Commission will also be asked to delegate responsibility for finalizing the charter to the Director.

#### II. Background

In 2001, a joint study by the Water Resources Department and U.S. Geological Survey established a hydraulic connection between surface and groundwater in the Deschutes Basin Study Area. Based on the study, the Department determined that groundwater appropriations have the potential for substantive interference with surface water rights and will measurably reduce scenic waterway flows unless they are mitigated.

On September 13, 2002, the Commission adopted Oregon Administrative Rule (OAR) Chapter 690, Division 521, the Deschutes Mitigation Bank and Mitigation Credit Rules to implement Oregon Revised Statute (ORS) 537.746, which authorized the establishment of a mitigation program in the Deschutes Basin.

The Deschutes Ground Water Mitigation Program was developed to provide for new groundwater uses while maintaining scenic waterway and instream water right flows in the Deschutes Basin Ground Water Study Area. The goals of the program are to maintain flows for Scenic Waterways and senior water rights, including instream water rights; facilitate restoration of flows in the middle reach of the Deschutes River and related tributaries; and to sustain existing water uses and accommodate growth through new groundwater development.

The purpose of mitigation banks in the Deschutes Basin is to facilitate transactions among holders of mitigation credits and persons interested in acquiring mitigation credits. Without mitigation, the Department is required by law to deny groundwater permit applications in the Deschutes Ground Water Study Area.

Under the current rules, anyone may apply for a mitigation bank charter. The mitigation bank charter may be approved or denied by the Commission following public notice and an opportunity for public comment.

There are presently two approved mitigation banks within the Deschutes Ground Water Study Area, the Deschutes River Conservancy Mitigation Bank (MB-1), and the Deschutes Irrigation LLC (MB-3).

On September 18, 2018, Arnold Irrigation District, submitted an application for a mitigation bank charter. The Department assigned the mitigation bank charter application MB-5. Notice of the application was made in the Department's weekly notice on October 9, 2018. The comment period closed on October 30, 2018. No comments were received.

### **III. Discussion**

Arnold Irrigation District (District) is an Oregon irrigation district organized under ORS Chapter 545. The District is governed by a five-member Board of Directors, with one director elected from each of the five voting zones within the District. The Board convenes at monthly meetings that are open to the public.

A five-person staff carries out the District's day-to-day operations. The staff operates out of the District's central office and consists of a manager, office manager, field supervisor, and two ditch riders. The District is one of eight irrigation districts that comprise the Deschutes Basin Board of Control.

At a minimum, OAR Chapter 690, Division 521 requires mitigation banks to:

- Maintain an accounting system to track assignments of mitigation credits to or from the bank;
- Maintain a separate account for mitigation credits obtained through time-limited transfer and instream lease mitigation projects;
- Separate each type of account maintained by the mitigation bank into the general zones of impact established by the Department; and
- Annually report all transactions and bank activities to the Department.

To be recognized as a mitigation bank, an applicant must enter into an agreement with the Department to receive a mitigation bank charter that details the agreements and obligations necessary to operate a bank.

The first Mitigation Bank Charter (MB-1) was approved by the Commission on February 14, 2003. It includes all of the elements required by Division 521, and has functioned very well over the past 15 years. This charter has since become the Department's template for new charter applications being submitted.



The draft mitigation bank charter for Arnold Irrigation District in Attachment 1 includes the following:

1. A description of the bank operation plan and goals;
2. A provision that Arnold Irrigation District will provide mitigation credits to anyone needing to satisfy a mitigation obligation in the Deschutes Basin Ground Water Study Area.
3. A provision that Arnold Irrigation District may develop and hold mitigation credits based upon permanent instream transfers, allocation of conserved water projects, time-limited transfers, instream leases, stored water releases, artificial groundwater recharge projects, and other projects that result in mitigation water.
4. A provision that Arnold Irrigation District does not intend to place any limitations on the size of mitigation credit transactions that it will conduct as a mitigation bank.
5. Inclusion of provisions for the establishment of mitigation credits, as well as the conditions for use of those credits.
6. Inclusion, as required by rule, of requirements for the accounting and reporting of mitigation credits by zone of impact and by credit type, including a separate account for temporary credits (instream leases and time-limited transfers) and a reserve mitigation credit account for all temporary credits.
7. Statements indicating that Arnold Irrigation District has authority to operate as a mitigation bank.
8. Provisions to address issues associated with a possible bank failure.
9. Provisions to allow for modification of the charter, assignment of credits to another mitigation bank, and to address enforcement and termination of the charter.

#### **IV. Conclusion**

The draft mitigation bank charter in Attachment 1 meets the requirements of ORS 537.746 and the rules under OAR Chapter 690, Division 521.

#### **V. Alternatives**

The Commission may consider the following alternatives:

1. Approve the mitigation bank charter for Arnold Irrigation District in the form of the draft charter in Attachment 1, and delegate responsibility for finalizing the charter to the Director in Attachment 2.
2. Approve the draft mitigation bank charter in Attachment 1 with revisions and delegate responsibility for finalizing the charter to the Director in Attachment 2.
3. Not approve the proposed mitigation bank charter and request further evaluation by the Department.

#### **VI. Director's Recommendations**

The Director recommends that the Commission select Alternative 1, to approve the mitigation bank charter for Arnold Irrigation District in the form of the draft charter in Attachment 1 and delegate responsibility for finalizing the charter to the Director in Attachment 2.

Sarah Henderson  
(503)986-0884

Attachment 1: Draft Mitigation Bank Charter for Arnold Irrigation District with Exhibits

Attachment 2: Delegation of Commission Authority for Chair Signature



## ARNOLD IRRIGATION DISTRICT MITIGATION BANK CHARTER

### INTRODUCTION

This charter, dated February 22, 2019, contains the details of the Arnold Irrigation District (District) Mitigation Bank's (Bank) operating plan, general provisions for the establishment and use of mitigation credits, special conditions on the use of specific categories of mitigation credits, the accounting of mitigation credits, annual mitigation credit reports to the Oregon Water Resources Department (the Department), internal monitoring and contingency plans, and enforcement and charter termination provisions. By signing this charter, the party, listed above, has agreed to the conditions described herein.

#### 1. PURPOSE OF THE MITIGATION BANK

The purpose of the mitigation bank is to facilitate transactions among the holders of mitigation credits and persons who desire to acquire mitigation credits.

#### 2. SERVICE AREA

The service area is the Deschutes Basin Ground Water Study Area

#### 3. OPERATION PLAN

##### A. Mitigation Bank Operation Plan

- i. Arnold Irrigation District is an Oregon irrigation district organized under Oregon Revised Statute (ORS) Chapter 545.
- ii. The District is governed by a five-member Board of Directors, with one director elected from each of five voting zones within the District. Directors must be Oregon residents and owners of land, or shareholders of corporate owners of land, within the District.
- iii. The Arnold Irrigation District Mitigation Bank will be run as a subprogram of the District with staff time allocated as required by banking operations. The operation of the Bank will be supervised by the District's manager, who reports to the District's Board of Directors.
- iv. Mitigation Bank Goals
  - a. Facilitate mitigation projects and transactions to provide mitigation water to maintain Scenic Waterway and instream water right flows in the Deschutes Basin;

- b. Benefit land within the District, the District's water users, and the surrounding community and economy by enabling the development of new groundwater users; and
  - c. Provide a reliable source of mitigation credits.
- v. Mitigation Bank Customers
  - a. Subject to the approval of the District's Board of Directors and consistency with the District's purpose, the Bank will serve any customer interested in purchasing mitigation credits to satisfy a mitigation obligation or interested in holding mitigation credits, pursuant to any limitations in this Charter.
- vi. Development of Mitigation Credit Projects and Holding of Mitigation Credits
  - a. The Bank will acquire mitigation credits from any party undertaking mitigation projects and from District projects.
  - b. Mitigation credits held by the Bank may originate from allocation of conserved water projects, permanent instream transfers, time-limited transfers, instream leases, stored water releases, artificial groundwater recharge projects.
  - c. The type of mitigation projects developed and/or types of mitigation credits that are held by the Bank must be consistent with the District's statutory obligations and other governing documents.
- vii. Mitigation Credit Transaction Size
  - a. The Bank will not limit the size of mitigation credit transactions it will conduct.

#### 4. ESTABLISHMENT AND USE OF MITIGATION CREDITS

##### A. General Provisions for All Types of Mitigation Credits

- i. All mitigation credits are awarded by the Department and only become available for mitigation bank transactions once they have been awarded. All mitigation credits shall be awarded by the Department consistent with OAR 690-521-0300 and OAR 690-521-0400.
- ii. Mitigation credits are valid until used to satisfy a mitigation obligation by a groundwater applicant, permit or certificate holder in the Deschutes Ground Water Study Area.
- iii. The mitigation bank may assign mitigation credits to any groundwater applicant, permit and certificate holder needing to satisfy a mitigation obligation.
- iv. The mitigation bank may assign mitigation credits to another mitigation bank, chartered by the Water Resources Commission, or other person. However, mitigation credits based upon instream leases and time-limited transfers may only be assigned to another mitigation bank.



- b. Benefit land within the District, the District's water users, and the surrounding community and economy by enabling the development of new groundwater users; and
    - c. Provide a reliable source of mitigation credits.
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- iii. The Arnold Irrigation District Mitigation Bank will be run as a subprogram of the District with staff time allocated as required by banking operations. The operation of the Bank will be supervised by the District's manager, who reports to the District's Board of Directors.
- iv. Mitigation Bank Goals
  - a. Facilitate mitigation projects and transactions to provide mitigation water to maintain Scenic Waterway and instream water right flows in the Deschutes Basin;

- v. The mitigation bank shall provide notice to the Department within 30 days of any mitigation credits assigned to another mitigation bank or other person. This notice shall include the number of mitigation credits assigned, the name, mailing address and phone number of the mitigation bank or person to which mitigation credits were assigned, and the unique mitigation project number assigned by the Department.
- vi. The mitigation bank shall provide notice to the Department within 30 days of any mitigation credits assigned to the mitigation bank from another mitigation credit holder. This notice shall include the number of mitigation credits assigned, the name, mailing address and phone number of the previous holder of the mitigation credits, and the unique mitigation project number assigned by the Department.
- vii. Mitigation credits will be organized in general categories: permanent mitigation credits (permanent instream transfers and allocation of conserved water); temporary mitigation credits (instream leases and time-limited transfers); and performance dependant mitigation credits (artificial groundwater recharge and stored water releases).
  - a. Other mitigation projects, approved by the Department, will be assigned to these categories as they pertain to the nature of the project.

#### B. General Provisions for Temporary and Performance Dependant Mitigation Credits

- i. The mitigation bank shall notify purchasers of mitigation credits of the category of credits purchased. The mitigation bank shall state if the credits are temporary and whether subject to the continued maintenance of a mitigation project. The notice shall include identification of the specific category (i.e. instream lease, storage release, etc.) of project(s) used to generate the mitigation credits and the mitigation project number used to generate the mitigation credits.
- ii. The mitigation bank may elect to replace temporary and performance dependent mitigation credits with mitigation credits originating from permanent mitigation projects. However, when replacing mitigation credits used to mitigate specific groundwater use permits and certificates, the mitigation bank must notify the Department and the affected groundwater permit/certificate holder(s) within 30 days of the change. Notification must include the same information as identified in the Documentary Evidence Form in Subsection G of this section. Replacement mitigation credits must match the mitigation obligation of the affected groundwater permit/certificate, as identified by the Department.

#### C. General Provisions for Temporary Mitigation Credits

- i. To assign temporary mitigation credits, the mitigation bank must also maintain a matching reserve of mitigation credits. For every temporary mitigation credit used to satisfy a mitigation obligation there must be a matching mitigation credit held in reserve. This matching reserve mitigation credit must benefit the same



zone of impact as the mitigation credit used to satisfy a mitigation obligation. The matching reserve mitigation credits may originate from any mitigation project(s).

- ii. The mitigation bank must notify the Department, which shall be provided as part of the annual report as described in Section 6.D.iv. of this charter, of any change in temporary mitigation credits or matching reserve credits, including how the mitigation bank intends to replace expiring or expired credits and rebalance reserves resulting from such change. The notice should demonstrate to the Department that the mitigation credits have been replaced, matching the affected groundwater permit/certificate's mitigation obligation.
  - a. Notice shall also be provided to the affected groundwater permit/certificate holder(s). Notice should include the same information as provided in the Documentary Evidence Form described in Subsection G of this Section.
  - b. Replacement of temporary mitigation credits is not required if the affected groundwater permit/certificate has been cancelled by the Department for any reason.

D. Special Conditions for Use of Temporary Mitigation Credits Based on Instream Leases

- i. Instream Lease applications for generation of mitigation credits must be submitted to the Department by the deadline for instream lease applications specified in OAR Chapter 690, Division 77.

E. Special conditions for use of Performance Dependant Mitigation Credits Based on Storage Releases

- i. The continued validity of mitigation credits based upon storage releases is contingent upon the continued annual release of stored water.
- ii. The continued validity of mitigation credits based upon stored water releases may also be subject to the continuance of a contract or other written agreement for release of stored water between the mitigation bank (or other third person entity) and the operator of the reservoir. Any requirement for a contract or other written agreement will be identified as a water use condition in any permit (and subsequent certificate) issued authorizing the release of stored water by the Department.
  - a. If a contract or other written agreement is required, the mitigation bank shall keep a current contract or agreement on file with the Water Resources Department.
- iii. If the provisions in Subsections i. and ii. are not met by either the mitigation bank or other project operator, the mitigation bank shall be responsible for replacing the mitigation credits for the affected groundwater permit/certificate and demonstrate to the Department that the mitigation credits have been replaced,



matching the groundwater permit/certificate's mitigation obligation. Notice to the Department and the affected groundwater permit/certificate holder(s) should follow the general provisions provided in Section 4.B of this charter even if the performance dependent mitigation credits are replaced with the same type of credits.

- a. If responsibility for maintenance of the project has been turned over to a purchaser(s) of the mitigation credits, said purchaser shall be responsible for replacing mitigation credits for the affected groundwater permit/certificate if the provisions of Subsections i. and ii. are not met.
- b. Replacement of performance dependent mitigation credits is not required if the affected groundwater permit/certificate has been cancelled by the Department for any reason.

F. Special conditions for use of Performance Dependant Mitigation Credits Based on Artificial Ground Water Recharge

- i. The water use permit granted by the Department authorizing an artificial groundwater recharge project may contain terms and conditions describing how water may be used in association with this project, including for mitigation purposes. Awarding and use of mitigation credits generated by an artificial groundwater recharge project would be subject to those terms and conditions.
- ii. The continued validity of mitigation credits based upon an artificial groundwater recharge project is subject to the continuation of the project.
- iii. If the provisions in Subsections i. and ii. are not met by either the mitigation bank or other project operator, and the project fails, the mitigation bank shall be responsible for replacing the mitigation credits for the affected groundwater permit/certificate and demonstrate to the Department that the mitigation credits have been replaced, matching the groundwater permit/certificate's mitigation obligation. Notice to the Department and the affected groundwater permit/certificate holder(s) should follow the general provisions provided in Section 4.B of this charter even if the performance dependent mitigation credits are replaced with the same type of credits.
  - a. Replacement of performance dependent mitigation credits is not required if the affected groundwater permit/certificate has been cancelled by the Department for any reason.

G. Documentary Evidence of Purchase of Mitigation Credits Provided to Purchaser

- i. Upon assignment of a mitigation credit(s) to any person intending to use the mitigation credit(s) to satisfy a mitigation obligation, the mitigation bank shall also provide that person with a completed documentary evidence form. The mitigation bank shall use a documentary evidence form provided by the Department and the mitigation credit purchaser should be directed to submit the

completed form to the Department. This form demonstrates to the Department that the groundwater applicant, permit or certificate holder has obtained valid mitigation credits, which have been assigned to that groundwater applicant, permit or certificate holder to satisfy their mitigation obligation.

- ii. The documentary evidence form shall include, at minimum, the number of credits purchased, the application, permit, or certificate number of the groundwater use, the mitigation project number(s) used to generate the mitigation credits purchased, the zone of impact in which the credits are to be used, and the name of the mitigation bank from which the mitigation credits were purchased.
  - a. If the mitigation bank is not the operator of the mitigation project, the documentary evidence form shall also include the name, mailing address, and phone number of the operator of the mitigation project. For stored water releases this shall also include, as applicable, the contract number and the source of the stored water, being the reservoir name and storage permit/certificate number.

## 5. MITIGATION CREDIT ACCOUNTING AND TRACKING

- A. The mitigation bank is required to maintain an accounting system to track assignments of mitigation credits to or from the mitigation bank. The mitigation bank will consist of a series of accounts. A separate account of mitigation credits shall be maintained for each of the zones of impact, as identified by the Department. Within each zone of impact, there shall be another series of accounts for each category of mitigation credit: permanent mitigation credits; temporary mitigation credits; and performance dependant mitigation credits.
- B. This system will provide full tracking of each transaction that the mitigation bank undertakes and it will provide balance statements for each of the accounts, for the purposes of internal management and external reporting.
- C. General Mitigation Credit Accounting and Tracking Requirements
  - i. Mitigation credits, as awarded by the Department, may be available for assignment in one or more zones of impact. The Department will identify the zones of impact in which a mitigation credit is available for assignment to a groundwater applicant, permit or certificate holder as part of the preliminary and final award of mitigation credits.
  - ii. The transaction register for each account will include the following information at a minimum:
    - a. Transaction identification number;
    - b. Date of the transaction;
    - c. Type of transaction (i.e. a credit or a debit);
    - d. Number of mitigation credits (in acre-feet) transacted.



- iii. If the transaction is a credit (i.e. a deposit of mitigation credits into an account) the following information will also be recorded:
    - a. The seller's customer identification number, *as assigned by the Bank*.
    - b. The type of mitigation project that produced the credit.
    - c. The mitigation project number that produced the mitigation credit and the number of mitigation credits assigned to the mitigation bank. The mitigation project number is a unique number assigned to the project by the Department.
  - iv. If the transaction is a debit the following information will also be recorded:
    - a. The buyer's customer identification number, *as assigned by the Bank*.
    - b. The buyer's groundwater permit application number, groundwater permit number, or groundwater certificate number.
    - c. The number of mitigation credits purchased and the mitigation project number that produced the mitigation credit.
  - v. The mitigation bank will also maintain customer information including standard contract information.
  - vi. When a mitigation credit has been sold or transferred to another mitigation bank or groundwater applicant, permit or certificate holder, the mitigation bank shall adjust its accounting records accordingly.
    - a. If a mitigation credit originating in one of the local zones of impact is used to satisfy a mitigation obligation in a downstream zone of impact, then accounting records of the mitigation bank shall be adjusted accordingly to show the use of the credit in the appropriate zone of impact.
  - vii. The mitigation bank's accounts will be maintained as part of a computerized database, with transaction records printed and maintained in a register. The Arnold Irrigation District Mitigation Bank will ensure that appropriate hard and computer copy backup systems are in place to protect these records.
- D. The Department will provide notice to the mitigation bank of any changes in the status of groundwater applications, permits, and certificates for which the Bank provides temporary and performance dependant mitigation credits. Status changes may include new water right numbers resulting from transfers and cancellation.
- E. Specific Mitigation Credit Accounting and Tracking Requirements for Permanent Mitigation Credits
- i. Allocation of conserved water projects and instream transfers involve permanent instream transfers of water rights. Credits will typically be deposited and then withdrawn. These mitigation credits do not require ongoing monitoring of their status once the mitigation credit has been assigned to a groundwater application, permit and/or certificate to satisfy a mitigation obligation. The credits are



effectively assigned to and belong to the groundwater applicant or permit/certificate holder.

F. Specific Mitigation Credit Accounting and Tracking Requirements for Performance Dependent Mitigation Credits

- i. Stored water releases and artificial groundwater recharge projects result in permits that can produce mitigation water, but the permit alone does not guarantee that the water will be instream each and every year. Thus, for such mitigation credits there is a need to perform an annual monitoring function to ensure that the credit is “earned” in each year. The mitigation bank must incorporate the results of such monitoring into the accounting system. In other words, such credits must have a field that indicates over what period they are in compliance with the provisions of the credit. If not in compliance, then the accounting system needs to show that the groundwater permit or certificate holder of the credit is in deficit and replacement credits must be acquired.

G. Specific Mitigation Credit Accounting and Tracking Requirements for Temporary Mitigation Credits and Reserve Mitigation Credits

i. Temporary Mitigation Credits

- a. The mitigation bank must maintain sufficient temporary mitigation credits and an equal number of matching reserve mitigation credits to provide for the continued mitigation of those groundwater uses that have been assigned temporary mitigation credits. This balance shall remain in effect for the life of the groundwater permit(s), and subsequent certificate(s), unless the mitigation source is replaced with permanent mitigation credits as provided in this charter under Section 4.B.
- b. The mitigation bank shall maintain a record of which groundwater use permits (and subsequent certificates) are using temporary mitigation credits.
- c. The transaction records of the mitigation bank shall include identification of the duration of the mitigation project that generated the temporary mitigation credit and the associated mitigation project number for each groundwater use permit or certificate.
- d. As each mitigation project expires, and the mitigation project and credits are replaced with a new mitigation project and credits for the affected groundwater permit/certificate(s), the mitigation bank’s accounting records shall be updated accordingly.

ii. Reserve Mitigation Credits

- a. The mitigation bank must maintain a reserve account of mitigation credits for temporary mitigation credits. For every temporary mitigation credit assigned to a groundwater applicant, permit or certificate holder to satisfy a mitigation

obligation, the mitigation bank must have a matching mitigation credit in reserve.

- b. Reserve mitigation credits shall also be tracked and accounted for by the same zones of impact as identified by the Department. A reserve mitigation credit must be in the same zone of impact as the credit assigned to a groundwater application, permit, or certificate(s) to satisfy a mitigation obligation.

H. The Department may, at the discretion of the Director, audit the mitigation credit accounting records of the mitigation bank.

## 6. ANNUAL REPORT

- A. The mitigation bank shall annually report all mitigation credit transactions, balances and activities of the mitigation bank to the Department. This annual report shall cover the previous calendar year and be submitted to the Department by January 31 of each year. The contents of the annual report are subject to the specifications listed below.
- B. The mitigation bank is required to prepare and submit this report annually until the last mitigation credit has been assigned, except in the case of temporary and performance dependent mitigation credits.
- C. The Department may require the mitigation bank to submit reports more frequently if determined necessary.
- D. Mitigation Credit Reporting Requirements
  - i. The annual report shall include a list of each account by zone of impact and mitigation credit category to provide a summary of each transaction in mitigation credits undertaken by the mitigation bank, and any remaining mitigation credit balances. The annual report should reflect that the amount of mitigation credit assigned to each groundwater application, permit and/or certificate equals the mitigation obligation of the groundwater application, permit and/or certificate.
  - ii. The annual report shall include a list of the mitigation credit projects, by zone of impact and mitigation credit category, from which mitigation credits were assigned during the reporting period and their remaining credit balances, if any.
  - iii. For performance dependent mitigation credits, the annual report shall also include:
    - a. For stored water, identification of any new contract agreements with the operator of a reservoir to provide for the continued release of stored water, unless the contract has been previously submitted to the Department. If the contract has already been submitted, then the mitigation bank only needs to identify the new contract number. If any stored water release contract has been modified or otherwise altered, a new copy of the contract shall be submitted to the Department.



1. Compliance with Subsection iii.a. of this section is not necessary if the mitigation bank or other party has turned responsibility for maintenance of the mitigation project (i.e. the contract) over to the groundwater applicant/permit/ certificate holder or other mitigation bank/person to which the mitigation credits have been assigned.
  - b. For any performance dependant mitigation credits that have been replaced, including credits replaced due to failure of the project (partially or fully), identification of the affected groundwater permits/certificates, the number of performance dependent mitigation credits for each groundwater use, the former mitigation project number(s) for each groundwater use and the replacement mitigation project number and associated credits.
  - c. Identification of any mitigation projects that are not in compliance with the provisions in Section 4.E and 4.F of this charter and the affected groundwater use permits/certificates.
  - d. For aquifer recharge projects, the same information as must be reported to the Department in association with the water use permit authorizing the aquifer recharge project. This information shall at a minimum include the amount of water recharged during the previous calendar year.
- iv. For temporary mitigation credits, the annual report shall also include:
- a. By zone of impact, documentation that for each temporary mitigation credit assigned to a groundwater applicant, permit or certificate holder there is an equal volume of matching valid (unused) mitigation credits in reserve.
  - b. A list of temporary mitigation credits, along with the associated groundwater use permit/certificate, that have expired and how those mitigation credits have been or will be replaced with matching mitigation credits. The report shall include identification of the expired mitigation project number and the replacement mitigation project number for each affected groundwater permit/certificate.
  - c. A list of temporary mitigation credits (and associated mitigation project) which are anticipated to expire during the upcoming reporting period. This shall also include a list of the groundwater permit/certificates associated with the expiring mitigation credits and associated mitigation projects and a description of how the mitigation bank plans to replace these temporary mitigation credits, and associated temporary mitigation projects.
- v. Permanent mitigation projects and their associated permanent mitigation credits and groundwater permit or certificate holders do not need to be included in the annual report once mitigation credits have been fully withdrawn from the mitigation bank.



E. Internal Monitoring Report

- i. The mitigation bank shall also include in the annual report a detailed summary of the results of internal monitoring for the year, including any problems that arose and how those were addressed and corrected.

7. AUTHORITY OF THE PARTY TO THIS MITIGATION BANK CHARTER TO OPERATE AS A MITIGATION BANK

- A. The District is authorized to do business in the State of Oregon pursuant to ORS Chapter 545. The District's authority under ORS Chapter 545 is sufficiently broad to operate a mitigation bank.
- B. At a District Board meeting held on May 8, 2018, the District's Board of Directors authorized the District to prepare and submit a groundwater mitigation bank charter application. (Exhibit A)

8. CONTINGENCY AND INTERNAL MONITORING PLANS

- A. A contingency plan has been developed by the District to address failure of the mitigation bank or failure of the mitigation bank to continue providing mitigation credits, specifically those credits based upon temporary and performance dependent mitigation projects. The contingency plan is detailed in the attached mitigation bank charter application (Exhibit B) submitted by the District.
- B. An internal monitoring plan has been developed by the District to determine the level of success of the mitigation bank and to identify and correct any problems as they are discovered. The internal monitoring plan is detailed in the attached mitigation bank charter application (Exhibit B) submitted by the District.

9. MITIGATION BANK CHARTER EFFECTIVE DATE, ANNUAL REVIEW, MODIFICATION, AND ASSIGNMENT

- A. This mitigation bank charter shall be effective following approval by the Water Resources Commission and upon the date of signature by the Director, and shall continue in effect, unless terminated earlier by written agreement of the mitigation bank operator and the Water Resources Department.
- B. Annual Review and Modification of Mitigation Bank Charter
  - i. The charter will be subject to annual review by the Water Resources Department.
  - ii. This charter may be modified to make needed changes and/or to address issues that are identified by the Arnold Irrigation District Mitigation Bank and/or by the Department.
  - iii. No modification or change of terms of this charter shall bind any party unless in writing and approved by the Water Resources Commission. The Water Resources

Commission must approve modified mitigation bank charters. Such modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

- C. The operator of the mitigation bank may not assign or transfer any portion of its interest in this mitigation bank charter or enter into subcontracts for any of the services required by this charter without prior written consent of the Water Resources Department.
  - i. If the operator of the mitigation bank decides to discontinue operation as a mitigation bank, the bank may assign all valid mitigation credits and mitigation bank responsibilities for performance dependant mitigation credits and temporary mitigation credits to another mitigation bank chartered by the Water Resources Commission. The mitigation bank may also assign all valid mitigation credits, with the exception of temporary mitigation credits, and mitigation bank responsibility for performance dependent mitigation credits to another person. However, prior to assignment of mitigation credits, the operator of the chartered mitigation bank must consult with the Water Resources Department to develop a plan to facilitate the transition of mitigation credits and bank responsibilities for performance dependent mitigation credits and temporary mitigation credits.
  - a. The Department may limit or restrict the assignment of mitigation credits, specifically those that are performance dependent and temporary, dependent upon how and where the mitigation credits are to be assigned.
  - ii. The operator of the mitigation bank shall not withdraw from this charter or terminate operation of the mitigation bank without prior consultation with the Water Resources Department.

#### 10. ENFORCEMENT, DEFAULT, REMEDY AND REVOCATION OF MITIGATION BANK CHARTER

##### A. Enforcement

- i. The failure of the Water Resources Department to enforce any provision of this mitigation bank charter shall not constitute a waiver by the Water Resources Department of that or any other provision of this charter.
- ii. The Water Resources Department is the only party to this mitigation bank charter that is entitled to enforce its terms.
- iii. The Department is neither party to nor in any way responsible for the contractual agreements between a mitigation bank and its customers.

##### B. Default, Remedy and Revocation of Mitigation Bank Charter by Water Resources Commission

- i. If the mitigation bank fails to meet any of the provisions in this charter, including maintenance of equivalent and matching reserve mitigation credits for temporary



mitigation credits and intentionally holding and assigning mitigation credits that have already been used (outside the mitigation bank) or withdrawn from the mitigation bank to satisfy a mitigation obligation or transferred to another mitigation bank or person, the Water Resources Commission may revoke this charter.

- ii. Prior to revoking the charter, the Department shall work with the mitigation bank to secure permanent sources of mitigation credits, if possible, for those who have received temporary or performance dependent mitigation credits as appropriate.
- iii. Prior to revocation of the charter for any reason by the Water Resources Commission, the Department shall work with the mitigation bank to explore all reasonable and equitable remedies, including the measures identified in the mitigation bank's contingency plan.
- iv. If the mitigation bank is not the entity undertaking and managing the mitigation project, failure to meet the terms and conditions of performance dependent mitigation credits may not result in the revocation of the mitigation bank charter. If the mitigation bank is not responsible for the maintenance of the mitigation project, then the risk of mitigation project failure is borne by the affected ground water permit or certificate holder.

#### 11. SIGNATURE AND APPROVAL DATE

Mitigation Bank:

\_\_\_\_\_  
Mitigation Bank Authorized Representative Signature

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Approved by the Oregon Water Resources Commission on

\_\_\_\_\_  
(date)

\_\_\_\_\_  
Director, Oregon Water Resources Department

\_\_\_\_\_  
(date)

#### 12. ATTACHMENTS

- A. Exhibit A - Documentary Evidence of Approval from DBBC
- B. Exhibit B - Arnold Irrigation District Mitigation Bank Charter Application

**Exhibit A**

Arnold Irrigation District  
Monthly Board Meeting  
May 8, 2018

The meeting was brought to order by Bill Grafton at 3:03 pm. Board members present were Bill Grafton, Rob Rastovich, Bren Hirschberg, Walt Warchol and Matt Steele. Office staff members present were Shawn Gerdes, Colin Wills and Juanita Harvey. Also present was the District's attorney Mark Reinecke and patron Mike Penhollow.

1. APPROVAL OF THE APRIL BOARD MEETING MINUTES: Bren motioned and Matt seconded his motion to approve the minutes. The vote was unanimous in favor.
2. APPROVAL OF ACCOUNTS PAYABLE: Matt motioned and Walt seconded his motion to approve the accounts payable. The vote was unanimous in favor.
3. REPORTS:
  - a. MANAGER'S REPORT: Shawn just attended the 2<sup>nd</sup> to last BSWG meeting. The model of the study worked well except in the Upper Deschutes Basin. Department of Fish and Wildlife were disappointed that the study didn't justify a year round minimum flow of 600 cfs.  
  
We will have the 1<sup>st</sup> unabridged version of the HCP shortly.  
  
Shawn has had meetings with Craig Horrell, manager of COID to discuss solutions regarding water availability issues in the basin.  
  
The snowpack is not good at all this year. It is at 58% or less or normal.
  - b. FIELD SUPERVISOR'S REPORT: 3,200 feet of piping was completed which resulted in a significant saving of 1.2cfs. The canals still have a lot of debris coming down which is causing head gate blockage. Possible lateral candidates for the next piping project would be the Ladera and then possibly the Goat Farm.  
  
May 15<sup>th</sup> the ditch riders will be shutting patron deliveries for non-payment.
  - c. OFFICE REPORT: There are 19 customers remaining with unpaid 2018 balances in the amount of \$17,225.34. 2 of these patrons also have existing liens for unpaid balances from previous years (1 for 2 years and another for 3 years).
4. OLD BUSINESS:
  - a. 1938 AGREEMENT – 30 CFS BELOW BEND: Shawn has been having conversation with COID about water as stated above in the Manager's report. Based on those conversations and depending on how those agreements work out, the board agreed to put discussions about the revised 1938 agreement on hold.
  - b. GREENHOUSE OPERATIONS DOCUMENT: Bren re-worked the document but didn't re-word it. He re-organized the document to make the flow clearer the document to make the flow clearer. The board agreed to the document and it could now be distributed to customers as a guideline for them when constructing/utilizing a greenhouse for any purpose within the District.
  - c. MITIGATION BANK: Kirk Maag of Stoel Rives was present to go through the mitigation bank application process and charter more in depth. He then answered questions from the board.



**Exhibit A**

Once Kirk had answered questions and the board felt comfortable with the process, Bren motioned and Matt seconded his motion for the board to move ahead and complete the mitigation bank application process and complete the charter. The vote was unanimous in favor.

5. NEW BUSINESS: There weren't any new items of business brought forward for discussion.
6. OPEN FORUM: Mark mentioned that the public presentation of the Watershed Plan by the NRCS, FCA and TID will be at the Cascade Academy in Tumalo following today's board meeting. Anyone could attend the meeting. Mark, Shawn and Colin were going to attend.
7. ADJOURNMENT: The meeting adjourned at 5:04 pm.

ARNOLD IRRIGATION DISTRICT

Pat Linsley  
Walt Wanda  
Matt Stutz

**Exhibit B**

Mitigation Bank Charter Application Number (assigned by WRD):

**STATE OF OREGON  
OREGON WATER RESOURCES DEPARTMENT**

**Mitigation Bank Charter Application**

*Please type or print in dark ink. You may attach additional pages in response to questions asked in this application. If you attach additional pages, please clearly identify the question(s) to which you are responding on the attached pages. If your application is found to be incomplete or inaccurate, we will return it to you. Please read and refer to the instructions when completing your application. Thank you.*

*The purpose of this application is to provide sufficient information to the Department for review of the proposed Mitigation Bank and for inclusion by the Department in the mitigation bank charter for consideration by the Water Resources Commission. A draft outline of a mitigation bank charter is attached for your reference.*

*As the Department reviews your application and drafts the mitigation bank charter, the Department may request additional information, if necessary.*

**APPLICANT INFORMATION**

Applicant Name or Organization: Arnold Irrigation District  
Contact Name: Shawn Gerdes, Manager  
Mailing Address: 19604 Buck Canyon Road  
City, State, Zip Code: Bend, OR 97702  
Telephone Number: (541) 382-7664  
Other Phone Number: N/A  
Fax Number: N/A  
E-Mail Address: aidist@bendbroadband.com

**SERVICE AREA**

- A. Do you propose to serve a smaller service area within the Deschutes Ground Water Study Area?
- ☐ Yes If yes, then describe your proposed service area:
- ☒ No

**OPERATIONAL PLAN**

- A. Describe your organization. Include a description of how you or your organization is organized, how your organization operates, and the mission, goals and strategies of the organization.

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**Exhibit B**

Arnold Irrigation District (the "District") is an Oregon irrigation district organized under ORS chapter 545. The District encompasses approximately 4,380 acres and delivers water to about 945 separate accounts within the District's boundary.

The District is governed by a five-member Board of Directors, with one director elected from each of five voting zones within the District. The Board conducts and manages the business affairs of the District; makes and executes necessary contracts; employs and appoints necessary agents, officers and employees; establishes bylaws, rules and regulations for the administration of the District and for the distribution and use of water among District landowners; and performs all acts necessary to carry out the purposes of the Irrigation District Law. The Board convenes at monthly meetings that are open to the public.

Directors must be Oregon residents and owners of land, or shareholders of corporate owners of land, within the District. Board members serve staggered three-year terms, and Board elections are held annually in November. Board decisions are made by majority vote, unless otherwise required by law or the District's bylaws.

A five-person staff carries out the District's day-to-day operations. The staff operates out of the District's central office and consists of a manager, office manager, field supervisor, and two ditch riders.

The District's purpose is to provide for construction of works for irrigation and to provide for reconstruction, betterment, extension, purchase, operation and maintenance of works already constructed. The District is a not-for-profit entity and operates for the sole benefit of the lands within its boundary and the owners of those lands. The District recognizes that mitigation projects can help the District to better serve the lands within its boundary and the owners of those lands. As such, the District's aims align with the goal of the Deschutes Groundwater Mitigation Program, which is to provide for new groundwater uses while maintaining scenic waterway and instream water right flows in the Deschutes Basin.

The District is one of eight irrigation districts that comprise the Deschutes Basin Board of Control ("DBBC"). Through the DBBC, the District and the other member districts coordinate and share resources and management assets to conserve water, improve services for farm and ranch families, and enhance river conditions for salmon, steelhead, other fish and wildlife species, and recreational opportunities.

As well as being a member of the DBBC, the District has its own proven track record for taking action to conserve water. Examples of water conservation measures taken by the District include: repairing leaks in an historic metal flume, lining 1.5 miles of the District's main canal and laterals, piping 5.5 miles of laterals, and eliminating 4.5 miles of laterals. The District diligently monitors water at turnouts and, as result, has reduced its average rate of diversion by approximately 25 cfs since 1997. In addition, the District was one of the first irrigation districts to participate in Oregon's instream leasing program and for the past decade has leased roughly 2 cfs into the Deschutes River to benefit fish and wildlife.

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**Exhibit B**

- B. Provide a description of how the proposed mitigation bank will be organized, how it will operate, and the mission, goals and strategies of the proposed mitigation bank.**

The Arnold Irrigation District Mitigation Bank (the "Bank") will be organized as a subprogram of the District. For that reason, the actions of the Bank will need to align with the District's purpose, which is to operate for the benefit of lands within the District.

The District will operate the Bank to accomplish the following goals:

1. Facilitate mitigation projects and transactions to provide mitigation water to maintain Scenic Waterway and instream water right flows in the Deschutes Basin;
2. Benefit land within the District, the District's water users, and the surrounding community and economy by enabling the development of new groundwater users; and
3. Provide a reliable source of mitigation credits.

The operation of the Bank will be supervised by the District's manager, who reports to the District's Board of Directors. District staff time will be allocated as necessary to the operation of the Bank. The Bank will acquire credits from any person or entity undertaking an eligible mitigation project, as well as from the District's own projects. The Bank will make these credits available to any interested party, with price driven by market demand and supply.

- C. Provide a description of the customers you intend to serve as a mitigation bank.**

The Bank will act as a broker, putting interested buyers together with willing sellers. Subject to the approval of the District's Board of Directors and consistency with the District's purpose, the Bank will serve all interested parties.

- D. Identify the types of mitigation projects, if any, you intend to develop as a mitigation bank.**

The District will explore all types of mitigation projects but has not yet committed to pursuing any specific mitigation projects to supply mitigation credits for the Bank.

- ☒ Allocation of Conserved Water Projects
- ☒ Instream Water Right Transfers
- ☒ Time Limited Transfers
- ☒ Instream Leases
- ☒ Stored Water Releases
- ☒ Artificial Ground Water Recharge
- ☐ Other (describe): \_\_\_\_\_

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**Exhibit B**

**E. Identify the types of mitigation credits you intend to hold as a mitigation bank.**

The District is open to holding mitigation credits generated from all types of mitigation projects and will work with parties interested in pursuing mitigation projects to facilitate their successful implementation.

- ☒ Mitigation Credits based upon Allocation of Conserved Water Projects
- ☒ Mitigation Credits based upon Permanent Instream Transfers
- ☒ Mitigation Credits based upon Time-Limited Transfers to instream use
- ☒ Mitigation Credits based upon Instream Leases
- ☒ Mitigation Credits based upon Stored Water Releases
- ☒ Mitigation Credits based upon Artificial Ground Water Recharge projects
- ☐ Mitigation Credits based upon other types of projects which result in water protected instream (describe).

**F. Do you propose to place any limits on the size of transactions you would conduct as a mitigation bank?**

- ☐ Yes If yes, then describe the size limits you intend to place on mitigation credit transactions: \_\_\_\_\_
- ☒ No

**ACCOUNTING OF MITIGATION CREDITS**

**A. Provide a general description of how you intend to account and track mitigation credits by type and by zones of impact (as identified by the Department).**

The Bank will consist of a series of accounts, one account for each of the Zones of Impact (as identified by the Department). For each of these accounts a double-entry transaction system of credits and debits will be maintained. The system will provide full tracking of each transaction that the Bank undertakes, and it will provide balance statements for each of the accounts, for the purposes of internal management and external reporting.

The transactions register for each account will include the following information at a minimum:

- Transaction ID number
- Date of the transaction
- Type of transaction (i.e., a credit or a debit)
- Number of mitigation credits (in acre-feet)

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**Exhibit B**

If the transaction is a credit (i.e., a deposit of mitigation credits in the account) the following information will also be recorded:

- Seller identification number (as assigned by the District)
- Type of mitigation project that produced the credit
- Any Department-specific approvals or designations associated with the seller's mitigation project (e.g., final order number, permit number, or certificate number)
- Additional information fields from the final order that characterize the mitigation project (for example, for an instream transfer, details on the beneficial use, point of diversion, place of use, acreage, rate and duty, etc.)

If the transaction is a debit the following information will also be recorded:

- Buyer identification number (as assigned by the District)
- Buyer's groundwater permit application and final order number
- Additional information fields from the ground water permit including beneficial use, point of appropriation, place of use, acreage (if applicable), rate and duty, etc.

The District will also maintain contact information for buyers and sellers and any other information required to be maintained by the Department.

The Department's mitigation rules, OAR 690-521-0100 through -0600 ("Mitigation Rules"), identify at least three types of mitigation projects. Each type has its own implications for the accounting system. To maintain consistency between mitigation banks, the District proposes to follow the Deschutes River Conservancy's ("DRC") approach for characterizing transaction types. The DRC groups transactions into the following three categories:

1. *One-off permanent exchanges of credits from sellers to buyers.* Allocation of conserved water and instream transfers involve permanent instream transfers of water rights. As such, the credits are expected to be valid in perpetuity and inalterable (once the final order is issued). Credits are deposited and then withdrawn. Just as an individual with a mitigation project can develop and sell mitigation credits, so the Bank would simply broker the credits, dividing or aggregating them as necessary to ensure that the needs of specific transactions are met.
2. *Exchanges of credits from sellers to buyers that are contingent upon future performance by the entity undertaking the mitigation project.* Stored water releases and artificial groundwater recharge projects result in permits that can produce mitigation water, but the permit alone does not guarantee that the water will be instream each and every year. Thus, for such mitigation credits there is a need to perform an annual monitoring function to ensure that the credit is "earned" in each year. The accounting system for such credits must have a field that indicates that they are in compliance with the provisions of the credit. If not, then the accounting system must show that the user of the credit is in deficit and must acquire additional credits.
3. *Exchange of temporary credits from sellers or buyers.* Time-limited transfers and



**Exhibit B**

instream leases have two characteristics that differentiate them from other mitigation projects. First, under the Mitigation Rules, the Bank must hold two credits of this type in order to issue one credit to a buyer. Second, these credits have a defined and limited duration as credits. The exception to this second category is the case where the duration of a credit sought by a buyer is exactly equal to that of the corresponding mitigation project (time-limited transfer or lease). For time-limited transfers and instream leases that serve to offset a permanent groundwater right, the Bank must "hold" credits, and an equal number of reserve credits, and "assign" the credits to specific buyers over specified time frames. These complexities require a separate set of accounts (again by Zone of Impact) for these types of transactions as specified in the Mitigation Rules. Effectively, the credits would have a limited lifetime, and would be zeroed out of the accounting system as their term expired.

The Bank's accounts will be maintained as part of a computerized database, with transaction records printed and maintained in a register. The District will ensure that appropriate hard and computer copy backup systems are in place to protect these records. Annual reports of all transactions and balances will be made to the Department. At the request of the Department, the District will provide regular interim reports to the Department. The accounts will be available for audit by the Department as needed.

**CONTINGENCY PLAN**

- A. Provide a description of any contingency plan you may have to address potential failure of the mitigation bank to continue providing mitigation for ground water users, specifically for those mitigation credits based upon instream leases, time-limited transfers, storage releases and/or aquifer recharge.

The District developed strategies to protect the integrity of the Bank based on lessons learned during the nearly fifteen years that the Deschutes Groundwater Mitigation Program has been in operation. Since the establishment of the Groundwater Mitigation Program, the Water Resources Commission has chartered two mitigation banks: the DRC Mitigation Bank and the Deschutes Irrigation Bank. The DRC Mitigation Bank is the only bank that has completed mitigation bank transactions.

The DRC's experience and the Department's periodic review of the Groundwater Mitigation Program provide valuable insight regarding potential risks to the Bank. Through its assessment of the Groundwater Mitigation Program, the Department has determined that the primary sources of mitigation in the Deschutes Basin are instream leases (*temporary* mitigation) and instream transfers (*permanent* mitigation). The Department has flagged two principle areas of concern regarding temporary mitigation provided by instream leases. These areas of concern and the District's strategy for mitigating these concerns are described below.

1. *Permit Holder Failure to Continue to Obtain Temporary Mitigation.* The Department has determined that some permit holders fail to continue to obtain temporary mitigation as required. Groundwater users with permits issued under the Groundwater Mitigation Program are required by rule and by permit condition to

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maintain mitigation for the life of the groundwater use. Nonetheless, some permit holders that use temporary mitigation in one year fail to continue to provide mitigation in subsequent years.

To address this issue, the District will establish a practice of contacting permit holders that do not appear to be on track to obtain annual mitigation from the Bank. To the extent that permit holders continue to fail to obtain necessary mitigation, the Bank will notify the Department so that the Department can work with the permit holders to bring them into compliance. The District will collaborate with the Department to carry out this process.

*2. Shortage of Available Temporary Mitigation.* The amount of temporary mitigation available from instream leases may vary from year to year. As a result, a groundwater user who relies on temporary mitigation credits in one year may find that the credits are unavailable the next year. Although a such a shortage is a possibility, for every year that the Groundwater Mitigation Program has been in operation, the quantity of available temporary mitigation credits has exceeded demand for temporary mitigation credits in each Zone of Impact.

To diminish the risk of a shortage, the District will initially limit the proportion of temporary credit transactions (transactions involving instream leases) relative to the overall size/number of transactions of the Bank. Over time, the District will also encourage the transfer of temporary credits to permanent credits. As the Groundwater Mitigation Program has grown, the number of permanent credits has surpassed the number of temporary credits. Correspondingly, the proportion of mitigation obtained through instream transfers (as opposed to instream leases) has increased. The District anticipates that this trend will carry over to the Bank and will help improve the security of the Bank's temporary mitigation credit supply.

The District will also maintain a mitigation credit reserve as required by Department regulations. The reserve will contain a quantity of mitigation credits equal to or greater than the total quantity of temporary mitigation credits assigned by the Bank at any given time.

Ultimately, if a shortage were to occur, the District would work with the Department to secure mitigation, and if mitigation credits were unavailable, the District recognizes that the Department may be required to regulate groundwater uses without mitigation.

Finally, in addition to the specific strategies outlined above, the District will manage the contingency plan in an adaptive manner. The District will amend the contingency plan to reflect lessons learned through its operation of the Bank and the Department's ongoing reviews of the Groundwater Mitigation Program.

- B. Provide a description of your internal monitoring plan to determine the level of success of the mitigation bank and to identify any problems as they arise.**



**Exhibit B**

The District's manager will report to the District's Board of Directors on the progress of the Bank towards meeting the goals set forth in Part B of the Operational Plan (above). The table below outlines the District's strategy for measuring the Bank's progress towards achieving its three goals. The District recognizes, however, that monitoring requires financial resources and staff time. For that reason, the extent to which the District can engage in detailed and quantitative monitoring will depend on the extent to which (1) information from the Department is readily available, and (2) District activities, including mitigation banking, provide sufficient resources for the District to engage in these activities.

| Result                                 | Indicator   | Means of Verification   | Critical Assumptions   |
|--|---|---|--|
| 1. Facilitate mitigation               | New mitigation projects   | Data from the Department<br>Data from the Department and District regarding mitigation projects | Reliant on information provided by the Department  |
| 2. Development of new groundwater uses | Number of new groundwater permits issued with credits from the Bank | Data from the Department on permit applications and final orders<br>Data from the Department    | Demand for new mitigation credits will continue, although perhaps not at a constant rate                               |
| 3. Mitigation credit reliability       | Annual supply of credits meets or exceeds annual demand for credits | Data from the District  | The quantity of credits requested as compared to credits will be available via the District's credit accounting system |

**AUTHORITY**

- A. Provide a statement (or documentary evidence) that the operator of the mitigation bank is authorized to do business in the State of Oregon.**

The District is authorized to do business in the State of Oregon pursuant to ORS chapter 545.

- B. Provide a statement (or documentary evidence) that the operator of the mitigation bank has the approval from its governing board to operate as a mitigation bank (if appropriate).**

At a District Board meeting held on May 8, 2018, the Board of Directors authorized the District to prepare and submit a groundwater mitigation bank charter application.

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**SIGNATURE**

The information provided in this application is true and correct to the best of my knowledge.

      Shawn Gerdles      9/11/2018  
Signature of Applicant      Printed Name      Date

\_\_\_\_\_  
Signature of Co-Applicant (if any)      Printed Name      Date

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**Oregon**  
Kate Brown, Governor

Attachment 2

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

**OREGON WATER RESOURCES COMMISSION  
DELEGATION OF COMMISSION AUTHORITY**

Pursuant to the Water Resources Commission's authority under ORS 536.025 to delegate the exercise, in the Commission's name, authority vested in the Commission by law, the Commission hereby delegates to the Water Resources Director, the authority granted by ORS 537.746(4) and OAR 690-521, to finalize the approved Mitigation Bank Charter. This delegation of authority is limited to Arnold Irrigation District Bank Charter (MB-5).

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Meg Reeves, Chair

Oregon Water Resources Commission

