

OREGON



WATER RESOURCES
DEPARTMENT

Deschutes Mitigation Bank Charter for Arnold Irrigation District

**Oregon Water Resources Commission
February 22, 2019**

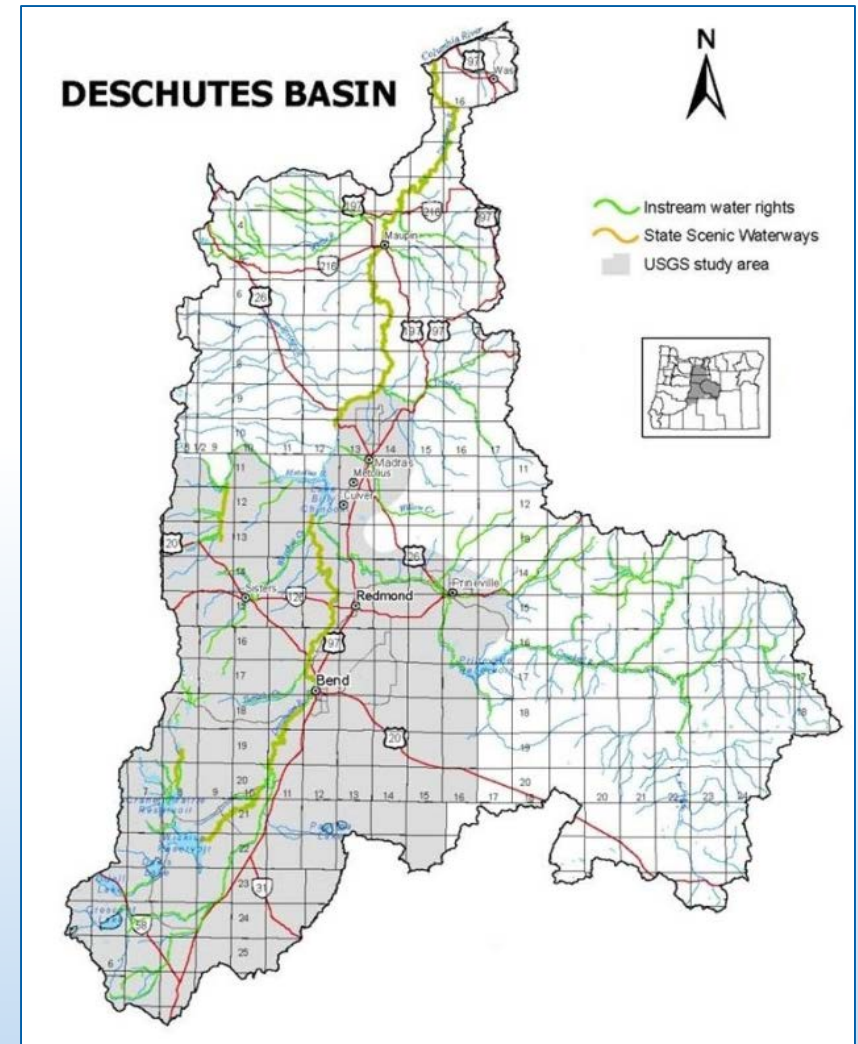
Sarah Henderson
Flow Restoration Program Coordinator

Lisa Jaramillo
Transfer and Conservation Section Manager

- **Purpose of a Mitigation Bank (Division 521)**
- **Requirements for a Mitigation Bank**
- **Applications submitted**
- **Approved Mitigation Bank Charters**
- **Arnold Irrigation District (AID) Application**
- **Commission Action**

Purpose of Mitigation Banks

- Facilitate transactions between:
 - Mitigation credit holders; and
 - Persons interested in acquiring mitigation credits.



Requirements for Mitigation Banks

- **Submit an application**
- **Applicant & OWRD enter into charter agreement**
- **Commission approval**
- **Maintain an accounting system**
- **Report annually**
- **Abide by the rules and the charter**



Five applications submitted to the Department

- **MB-1 Deschutes River Conservancy**
 - Approved by the Commission
- **MB-2 Central Oregon Irrigation District**
 - Withdrawn before being brought to Commission
- **MB-3 Deschutes Irrigation LLC**
 - Approved by the Commission
- **MB-4 Deschutes Basin Board of Control**
 - Withdrawn before being brought to Commission
- **MB-5 Arnold Irrigation District**
 - Pending

MB-1 Deschutes River Conservancy Mitigation Bank

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DESCHUTES WATER EXCHANGE MITIGATION BANK CHARTER

INTRODUCTION

This charter, dated February 14, 2003, contains the details of the Deschutes Water Exchange (DWE) Mitigation Bank's operating plan, the accounting of mitigation credits, annual mitigation credit reports to the Oregon Water Resources Department (the Department), special conditions on the use of specific categories of mitigation credits, 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. The Deschutes Water Exchange Mitigation Bank is a subprogram of the DWE, which is a project of the Deschutes Resources Conservancy (DRC). The operation of the mitigation bank will be supervised by the DWE manager, who in turn reports to the Executive Director of the DRC.
- ii. The DRC is a private nonprofit corporation founded in the Deschutes Basin in 1996. The 19 DRC board members are affiliated with a wide variety of private, tribal, and public interests active in natural resource conservation in the basin. The organization is Congressionally authorized under Section 301 of the Oregon Resource Conservation Act of 1996 (Public Law 104-208) as amended by the Deschutes Resources Conservancy Reauthorization Act of 2000 (Public Law 106-270) and receives federal appropriations through the Bureau of Reclamation.
- iii. A subcommittee of the DRC advises the DWE. This subcommittee includes members of the board who represent state agencies, the environmental community, irrigation districts, and the private sector.
- iv. The mitigation bank will be run as a subprogram of the DWE with staff time allocated as required by banking operations.


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- 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

April 8, 2003
(date)

Approved by the Oregon Water Resources Commission on February 14, 2003
(date)


Director, Oregon Water Resources Department

4/11/03
(date)

12. ATTACHMENT

- A. Exhibit A - Articles of Incorporation for the DRC
- B. Exhibit B - November, 2002, DRC Board Meeting minutes and April 4, 2003, DRC Board Resolution
- C. Exhibit C - DWE Mitigation Bank Charter Application

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MB-3 Deschutes Irrigation LLC Mitigation Bank

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Charter May 5, 2006

DESCHUTES IRRIGATION LLC MITIGATION BANK CHARTER

INTRODUCTION

This charter, dated May 5, 2006, contains the details of the Deschutes Irrigation, LLC Mitigation Bank's operating plan, the accounting of mitigation credits, annual mitigation credit reports to the Oregon Water Resources Department (the Department), special conditions on the use of mitigation credits, 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

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3. OPERATION PLAN

A. Mitigation Bank Operation Plan

- i. The Deschutes Irrigation, LLC (DI) Mitigation Bank is wholly owned by Emmett Ranch, LLC. Emmett Ranch, LLC is comprised of three members. The operation of the mitigation bank will be supervised by the Managing member, John Short.
- ii. Emmett Ranch, LLC is a privately owned real estate investment company.
- iii. Emmett Ranch, LLC will participate in property and water right acquisitions targeted for establishment of mitigation credits. The DI Mitigation Bank will establish mitigation credits.
- iv. **Mitigation Bank Goals:**
Deschutes Irrigation, LLC (DI) seeks to profitably enhance the lands involved both aesthetically and environmentally while permanently protecting water instream within the Deschutes Basin Study Area and providing permanent mitigation credits for small irrigators.
- v. **Mitigation Bank Customers:**

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Charter May 5, 2006

- i. If the mitigation bank fails to meet any of the provisions in this charter, including 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 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.

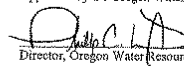
11. SIGNATURE AND APPROVAL DATE

Mitigation Bank:


Mitigation Bank Authorized Representative Signature

5-17-06
(date)

Approved by the Oregon Water Resources Commission on May 5, 2006
(date)


Director, Oregon Water Resources Department

5/18/06
(date)

12. ATTACHMENT

- A. Exhibit A - Articles of Incorporation for the Deschutes Irrigation, LLC
- B. Exhibit B - Sellers agreement
- C. Exhibit C - Deschutes Irrigation, LLC Mitigation Bank Charter Application
- D. Exhibit D - Seller's and buyer's escrow Instructions

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Arnold Irrigation District Application

- **Received September 18, 2018**
- **Assigned Mitigation Bank Number MB-5**
- **Public noticed October 9, 2018**
- **No comments received**
- **Describes proposed bank operation & goals; including the accounting system for tracking credits & reporting annually**
- **Meets all Division 521 requirements**

Alternatives

- 1. Approve AID's proposed Mitigation Bank Charter 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 AID's proposed Mitigation Bank Charter in Attachment 1 with revisions and delegate responsibility for finalizing the charter to the Director in Attachment 2**
- 3. Not approve AID's proposed Mitigation Bank Charter and request further evaluation by the Department**

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Thank you