

Deschutes Mitigation Program Feedback

(AS EXPRESSED BY DESCHUTES BASIN INTERESTS)

What is the scope and purpose of this document?

This document summarizes Deschutes Mitigation Program feedback as expressed by various basin interests.¹ The views expressed do not necessarily represent the position of the Oregon Water Resources Department (OWRD).

OWRD will consider the various viewpoints captured in this document – along with any additional feedback received by May 15, 2026 (see below) – during the development of the five-year program evaluation report due to the Oregon Legislature by the end of 2026.

Which viewpoints are summarized here?

The viewpoints summarized in this document are primarily those expressed by basin interests during the development and review of the following Deschutes Mitigation Program reports:

- 2009 legislative report
- 2016 legislative report
- 2021 legislative report
- 2020 annual report
- 2021 annual report
- 2022 annual report
- 2023 annual report
- 2024 annual report

How can you provide input?

OWRD invites you to review this summary of program feedback to:

- Confirm that your priority comments and suggestions have been captured; and/or
- Share any additional viewpoints that should be considered. (It is not necessary to resubmit comments already captured in this document.)

By May 15, 2026, please send any comments to Angella Rinehold (Senior Water Advisor, Central Region): angella.c.rinehold@water.oregon.gov. Comments submitted after May 15 will not be considered during development of the draft report. However, there will be an opportunity to comment on the completed draft report in August-September 2026.

¹ Comments reflected here include those expressed by the Confederated Tribes of Warm Springs, Central Oregon Cities Organization, Central Oregon Landwatch, Deschutes Basin Water Collaborative, Deschutes River Conservancy, League of Women Voters of Deschutes County, Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, Oregon Farm Bureau, WaterWatch of Oregon, and multiple engaged citizens.

Table 1: Summary of Deschutes Mitigation Program feedback as expressed by basin interests

A. Checks on the program		
<p><u>A1. 2029 sunset</u> The looming program sunset creates uncertainty for those who rely on groundwater, including cities. A program extension is needed urgently. Conversely, there are calls to address program feedback prior to an extension.</p>	<p><u>A2. 200 cfs cap</u> The allocation cap creates uncertainty for those who rely on groundwater and should be reviewed. Conversely, the cap should remain fixed until program feedback is addressed, including those related to seasonality (see C3).</p>	<p><u>A3. GW allocation rules</u> OWRD should clarify the link between the program and the new groundwater allocation rules, including how the rules address groundwater declines in the basin (both from the program and all other causes of decline).</p>
B. Impact on springs and water quality		
<p><u>B1. Impact on springs/water quality</u> Groundwater pumping reduces spring discharge and cold-water inputs to surface waters, translating to a loss of cold-water refugia for fish and wildlife. There is a need to identify high-value springs and better understand program impacts on springs and water quality.</p>		
C. Program architecture		
<p><u>C1. Limited license exclusion</u> Limited licenses are currently not included in the program. OWRD should consider statutory changes to incorporate limited licenses into the program.</p>	<p><u>C2. Temp mitigation/perm rights</u> Using temporary credits to mitigate permanent groundwater rights creates long-term reliability risks for program participants (see G2 regarding stability of temporary credit sources).</p>	<p><u>C3. Seasonality of mitigation</u> The program mitigates year-round groundwater use with irrigation season flows, resulting in reduced flows in winter and shoulder seasons. Annual accounting masks seasonal impacts that are at odds with the Scenic Waterway Act.</p>
<p><u>C4. Streamflow measurement</u> Groundwater withdrawals may take years to impact streamflows, while mitigation water increases streamflows immediately. This time lag overstates program success. Long-term streamflow monitoring is needed to ensure program goals are met.</p>	<p><u>C5. Single zone of impact</u> The program’s single zone of impact approach is too simplistic, as groundwater use may impact multiple zones.</p>	<p><u>C6. Localized impacts</u> Mitigation provided downstream of pumping may cause localized impacts to streams, particularly in the general zone of impact. Mitigation projects should be sited upgradient/upstream of groundwater use.</p>
<p><u>C7. Protection to Lake Billy Chinook</u> Protection of mitigation water only to Lake Billy Chinook is at odds with the Scenic Waterway Act, as it may result in reduced flow in the lower Deschutes. Water should be protected to the mouth of the Deschutes.</p>	<p><u>C8. Mitigation definition</u> Program rules define mitigation as “moderating” the effects of groundwater use, which does not meet statutory standards. Mitigation should be defined as “offsetting” the effects of use.</p>	

D. Underpinning science

D1. Groundwater flow models

There is need to recalibrate and refine the existing groundwater-surface water models that underpin the program.

D2. Streamflow model accounting

Questions exist about the program's streamflow model accounting, its implications for reported impacts, and whether review and revision are needed.

D3. Consumptive use coefficients

Consumptive use (CU) coefficients used to determine the mitigation obligation should reflect actual use (e.g., frequency and type of use). CU coefficients should be reevaluated.

E. Eligible mitigation projects

E1. CTWS injury test

A memorandum of understanding is needed between OWRD and the Confederated Tribes of Warm Springs to establish the process by which OWRD will assess injury to the Tribal Reserved Water Right from water rights transfers, including transfers processed through the program.

E2. Sufficiently reliable water

Water rights used for mitigation should meet eligibility criteria to ensure they are sufficiently senior/reliable to generate "wet water" that offsets groundwater use and avoids increased consumptive use and injury to instream water rights. (See related F3.)

E3. Conserved water

Allocation of Conserved Water (ACW) projects should be considered for mitigation credits as they result in senior water instream. Conversely, using ACW project water to mitigate for new groundwater use would amount to an aquifer "double dip."

E4. Artificial recharge

Artificial recharge (AR) is an opportunity to generate needed mitigation credits. Conversely, there is no way to protect recharged water instream, disqualifying AR as a source of mitigation credits.

E5. Stored water

The release of stored water is an opportunity to generate needed mitigation credits and address seasonality concerns (see C3). Conversely, it is important to consider the source of storage releases (e.g., ACW, see E3) and the impact on consumptive use.

E6. ODFW inputs

Oregon Department of Fish and Wildlife wishes to provide more input on mitigation projects to ensure offsets to local impacts, limit impacts to streamflows outside the irrigation season, and optimize benefits to fish and wildlife.

F. Oversight/enforcement

F1. 7j permits

Groundwater rights issued after 1995 ("7j permits") include a condition making them subject to regulation if the Scenic Waterway Act's "measurable reduction standard" is triggered. OWRD should regulate or require mitigation.

F2. Temporary credit enforcement

Groundwater permit holders relying on temporary credits may fail to secure necessary credits annually. OWRD should practice strict compliance monitoring and immediately regulate non-compliant participants.

F3. Wet water verification

OWRD should establish a monitoring protocol to confirm that mitigation project water generates "wet water" instream to prevent injury to instream water rights. (See related E2.)

F4. Exempt well regulation

Exempt wells do not require mitigation under the program. However, exempt wells are subject to regulation if they injure senior surface water rights (including instream water rights) and should therefore be regulated off unless mitigation is provided.

G. Functionality

G1. Access to permanent credits

A reliable system is needed to access permanent mitigation credits. The current system is inefficient, unpredictable, and costly. A neutral bank for permanent credits would be beneficial. Credits should be created as rural lands are urbanized. Conversely, this practice removes farmland from irrigated production and adversely impacts agricultural communities.

G2. Stability of temporary credits

Instream leasing is declining and is an unstable source of mitigation credits. Long-term or term-limited instream transfers would provide more stability. A mechanism to allow permanent mitigation credits to be used temporarily could also be considered.

G3. Zonal credit inequities

Mitigation credit availability is highly limited in some zones of impact, exacerbating difficulties with acquiring credits.

G4. Public awareness

There is a need for greater program awareness among groundwater applicants that may not understand program requirements, the allocation cap, or mitigation supply limitations. OWRD should consider fact sheets and outreach efforts.

H. Assessment and reporting

H1. Consideration of goals

When the program was established, stated goals were to mitigate impacts to scenic waterway flows and instream water rights while allowing qualifying groundwater appropriations. Evaluation reports should consider these goals and avoid “scope creep.” Conversely, unintended program consequences also need to be considered.

H2. Presentation of flow impacts

Reports should highlight seasonally reduced flows (versus annual accounting only), which can impact fish and wildlife. (See C3.) OWRD should present flow data in a way that reflects fish needs. Additionally, reports should aim to better capture the range of instream benefits of program.

H3. Changed winter flows

Basin changes are occurring that are greatly increasing flows outside the irrigation season. Changes are outside the program scope but should be reported to contextualize program impacts, including seasonality concerns (see C3).

H4. Model assumptions

Model assumptions and limitations should be addressed in reports, including whether approaches tend to overstate or understate program impacts.

H5. Perspective on impacts

Reports should present the volume of groundwater use under the program, ideally as compared to other factors affecting the aquifer (non-program groundwater use, climate, canal piping) to provide perspective on program impacts.

H6. Allocation cap status

The presentation of information related to groundwater allocation under the cap should be adjusted to provide a fuller picture of program users and cap status.

H7. Available mitigation

The presentation of mitigation credit availability should be adjusted to provide a fuller picture of the true credit availability in each zone of impact.

H8. Rights requiring mitigation

Reports should clarify which types of water rights require mitigation and which are eligible for mitigation under the program.