

## **John MacKinnon Testimony in Favor of HB 2027 with -1 Amendment**

I've fished and boated in the Upper Deschutes Scenic Waterway for nearly my entire life. It is a place that holds special significance for me.

Oregon voters passed the Oregon Scenic Waterways Act shortly after passage of the federal Wild and Scenic Rivers Act. This represented a broad directive from Oregon voters to conserve Oregon rivers in their natural state. Oregon voters passed the Act with the intent that Oregonians many years from now would be able see and experience the same wildness as previous generations.

### **The Conservationist Purpose of the Oregon Scenic Waterways Act**

Beyond recreation, the Oregon Scenic Waterways Act, provides that primary agency emphasis shall also be given to protecting the "aesthetic, scenic, fish and wildlife, [and] scientific" qualities of scenic waterways. ORS 390.845(1). On this point, OPRD noted in an internal document, "**Scenic waterways are not intended to accommodate bank recreation** as such, but to protect the view from the river, and fish and wildlife qualities of the waterway" (emphasis in original, document obtained through public records request).

Despite its own recognition of these Scenic Waterway values, OPRD has pushed a development agenda in the Upper Deschutes Scenic Waterway that would cause environmental harm in this area.

### **Environmental Harm Caused by Proposed Bridge and Trail in the Upper Deschutes Scenic Waterway**

The proposed bridge and trail system in the Upper Deschutes Scenic Waterway would have a destructive impact on sensitive riparian areas and wetlands. These areas serve as critical habitat to wintering deer and elk, redband trout, the threatened Oregon spotted frog, and countless other species.

Expert biologist testimony from the Oregon Department of Fish and Wildlife confirms this. In a comment opposing OPRD's proposed abolishment of the Upper Deschutes bridge prohibition, biologist Sara Gregory stated, "Generally, the Department supports public enjoyment of the State's natural resources. However, this amendment has the potential to increase public use of areas that have been designated as important to the conservation of wildlife." Gregory went on to highlight adverse impacts to specific wildlife populations. Gregory also noted that high user volume and the presence of dogs has been documented to adversely impact wildlife.

The fact that OPRD has disregarded an ODFW biologist shows that OPRD is not acting in accordance with the conservationist intent of the Oregon Scenic Waterways Act.

### **Concern over BPRD**

Even if OPRD does not administratively abolish the Upper Deschutes bridge prohibition, The Bend Park and Recreation District has shown that it still intends to construct a high-volume bridge and trail. Please see Attachment A, noting that BPRD intends to enter a 12-month waiting period to circumvent the Scenic Waterways Act, should OPRD maintain the bridge prohibition.

BPRD's intention to circumvent environmental law in any way possible is further reason that legislative action is necessary.

### **Final Points**

I would like to note that my objective isn't anti-recreation or anti-trail. However, in the present context, the evidence is clear that the proposed bridge and trail system would cause irreversible harm to sensitive riparian areas and wildlife.

It is also important to note that a trail already connecting Bend with the Deschutes National Forest already exists. Thus, the bridge is not needed because access already exists.

If OPRD continues to eliminate environmental protections in Scenic Waterways, all Oregon Scenic Waterways are at risk. Legislative action is needed to clarify the intent of the Oregon Scenic Waterways Act, and affirm Oregon's commitment to preserving rivers for future generations.

# Purpose and Need & Screening Criteria to determine preferred Bridge and Trail location (CAC)

## If on USFS Property

### Federal Process

Special Use (SU) Permit Application

- USFS Reviews Application for:
- Preserving and enhancing the ORVs
  - Use of federal and non-federal lands
  - Carrying capacity analysis

USFS to Amend Upper Deschutes Comprehensive Management Plan (UDCMP) if Necessary

Approve SU Permit application

Begin NEPA Analysis

- 10-30% Design
- Section 7/10 Analysis
- Field Surveys
- Environmental and Engineering Analysis

NEPA and SU Permit Approval

## If on Private Property

### Non-Federal Process

Carrying Capacity Analysis

City or County Permits

Right-of-way acquisition if necessary to access private land

Begin:

- 10-30% Design
- Field Surveys
- Environmental and Engineering Analysis

Permit Approval

- Submit letter to State Parks Commission with intent to construct project within State Scenic Waterway
- If denied, 12-month clock starts based on date of initial letter acceptance

Final Design

Construction