



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A,
Salem, OR 97301
(503) 986 – 0900

*Invitation
to provide* **COMMENT**

NOTICE OF OPEN COMMENT PERIOD AND RULEMAKING HEARING

**OAR Chapter 690
Division 518 (Mid-Coast Basin Program)**

August 2, 2006 Hearing Cancelled and Rescheduled for October 4, 2006

SUBJECT: The Oregon Water Resources Department (OWRD) is proposing to amend rules related to the Mid-Coast Basin Program (Oregon Administrative Rules Chapter 690, Division 518). This rulemaking is in response to a request by Lincoln City for three reservations of unappropriated water for multipurpose storage for future economic development on two waterways tributary to Devils Lake and a tributary of the Salmon River north of Lincoln City.

The Department previously filed notice of this rulemaking in the Oregon Bulletin published by the Secretary of State on July 1, 2006. As required by law, the Department requested that the newspaper notice be published for four consecutive weeks. However, due to an omission of one of the required weeks, the Department is renoticing the rulemaking. The hearing scheduled for August 2, 2006 is cancelled and rescheduled for October 4, 2006. The last date to submit written comments to the Department has also been extended from September 5, 2006 to October 18, 2006.

Under ORS 183.335(2)(b)(G), OWRD is also requesting public comment on whether other options should be considered for achieving the rule's substantive goals while reducing any negative economic impact of the rule on business.

**The last day to submit written comments to the Department is
Wednesday, October 18, 2006 by 5:00 pm.**

HOW TO COMMENT: Send letters or other materials expressing your opinion to the following address:

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266
ATTN: Rule Coordinator
by fax at: (503) 986-0903, Attn: Rule Coordinator
or by e-mail: rule-coordinator@wrd.state.or.us

Letters need not be typed, but should be legible, as should any other materials you send.

EXHIBIT A
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In addition, you can speak or submit written comments at the following public hearing:

Wednesday October 4, 2006
North Lincoln County Historical Museum
4907 SW Hwy 101
Lincoln City, Oregon 97367-1417
12:00 a.m. – 2:00 p.m.

To find out more about this rulemaking or to obtain a copy of the rules visit http://www1.wrd.state.or.us/cgi-bin/notices.pl?oar_notices or contact Bill Fujii at OWRD at (503) 986-0887.

BACKGROUND: On September 20, 2005, OWRD received a request by Lincoln City for three reservations of unappropriated water for multipurpose storage for future economic development on two waterways tributary to Devils Lake and a tributary of the Salmon River north of Lincoln City. On September 29, 2005, pursuant to ORS 537.356(2), the Department issued a public notice to local governments, watershed councils, tribes, and certain interested individuals and entities within the geographic area or basin affected by the request. On May 5, 2006 the Water Resources Commission (Commission) authorized initiation of rulemaking in response to Lincoln City's request to amend rules related to the Mid-Coast Basin Program OAR Chapter 690, Division 518.

Reservation requests are processed as Basin Program amendments through the rulemaking process. Reservations of water for multipurpose storage for future economic development are allowed by ORS 537.356. Any local government, local watershed council, or state agency or any other individual cooperating jointly with a local government, local watershed council, or state agency may request the Commission to reserve unappropriated water for multipurpose storage for future economic development. If adopted, the priority date for a reservation is the date the Commission takes action to initiate the rulemaking process (ORS 537.356(3)). Reservations are reflected in OWRD's water availability model and future water right applications to appropriate reserved water may only request to use such water for multi-purpose storage for future economic development.

Approval of a reservation does not mean that any water right application will be approved or that a reservoir may be constructed. Rather, a reservation merely sets aside water for a certain use with a specific priority date. If a water user wishes to appropriate reserved water, they must submit a water right application to OWRD. OWRD would then review that water right application based on the applicable public interest review standards.

In response to Lincoln City's reservation request, the proposed Division 518 rules include the following:

- A reservation of 374 acre-feet of unappropriated water in Rock Creek, tributary to Devil's Lake, for multipurpose storage for future economic development.
- A reservation of 1,350 acre-feet of unappropriated water from an unnamed stream (locally referred to as "Side Creek"), tributary to Devil's Lake, for multipurpose storage for future economic development for future application exclusively by the City of Lincoln City.
- A reservation of 1,250 acre-feet of unappropriated water from Treat River, tributary to Salmon River, for multipurpose storage for future economic development.

POSSIBLE FISCAL IMPACTS OF THE PROPOSED RULES: The Department does not have information indicating that negative fiscal or economic impacts will occur on the Department, other state agencies, units of local government, businesses, or the public as a result of adoption of these rules. There is no cost of compliance or fee to request a reservation of water. If adopted, the Department anticipates there would be a positive fiscal impact for public agencies, private businesses and non government public interest organizations and others that may need multipurpose storage for future economic development. If the three reservations are approved as requested by Lincoln City, six existing water right applications will be withdrawn by Lincoln City, thereby resolving all protests and any associated contested case hearings on those applications.

THE REVIEW PROCESS: Please present your comments by speaking at the public hearing listed above, or by sending your written comments by mail, email, or fax to the Water Resources Department at the address listed above. Written comments must be received no later than 5:00 PM, Wednesday, October 18, 2006. It will be your responsibility to verify that faxed or emailed comments are received.

The Commission is likely to consider these rule amendments at its meeting on November 16 and 17, 2006. The Commission may choose to receive additional oral public comment and written testimony on the proposed rules at the Commission meeting at which it takes action on the proposed rules. Written testimony presented to the Commission at that time will be limited to specific language suggestions related to changes made by the Department from the public hearing draft rules to the final proposed rules.

For copies of the proposed rules or further information on the public hearings, contact Bill Fujii at (503) 986-0887. You may also obtain a copy of the existing rules on the Department's web page at <http://www.wrd.state.or.us/>.

Note: The services, programs and activities of the Water Resources Department are covered by the Americans with Disabilities Act (ADA). The ADA prohibits discrimination against persons with disabilities. The Department intends to comply with the ADA. If you are interested and need special accommodations to participate in the public hearings, please contact the Department at (503) 986-0887, at least 48 hours prior to the hearing.