

Proposed Revision of Coastal Basin Programs

OAR Chapter 690

Divisions 501, 515, 516, 517 & 518

Dwight French

Water Right Services Division Administrator

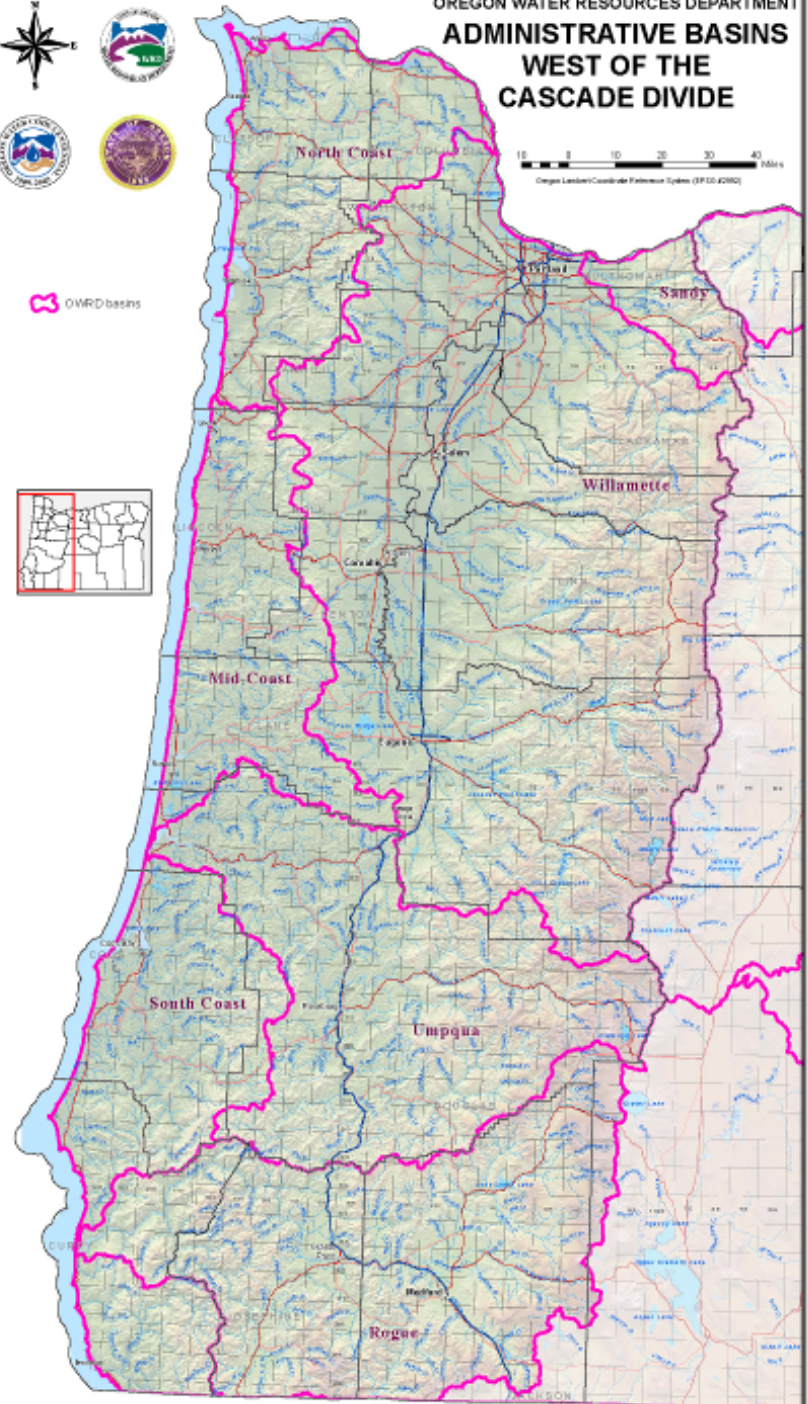
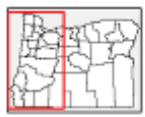
Tim Wallin

Water Rights Program Manager

ADMINISTRATIVE BASINS WEST OF THE CASCADE DIVIDE



 OWRD basins



Rationale for Revisions

- Make rules consistent with new and repealed statutes
- Minor technical clarifications & non-substantive technical changes for completeness, concision and correction of clerical errors (e.g., typos)

More Specifically

- Remove the requirement for WRC review of certain applications for storage (ORS 536.325 repealed)
- Remove the prohibition on acceptance of applications for non-classified uses for consistency with ORS 536.295
- Make classifications comprehensive by incorporating all imperatives regarding withdrawal from further appropriation (legislative; orders of WRC, Director, & State Engineer)
- Make distinction between allowable period of diversion for storage from storage period *per se*

Rulemaking Timeline

- Rules Advisory Committee met July 13
- Newspaper notices published → early September
- Notice of public hearings (SoS) → September 1
- Public hearings held → September 25 – October 3
 - Roseburg (Whipple)
 - Grants Pass (Roberts)
 - Coos Bay (Whipple)
 - Tillamook (LeJeune)
 - Lincoln City (LeJeune)
- Written comment deadline October 10

Summary of Public Comment

- Supported inclusion of withdrawal orders in classifications
- Supported removal of references to other state agencies
- Recommended retention of:
 - WRC storage review provision
 - introductory language that repeats statute
 - the word “only” in classifications
- Recommended removal of certain reservations of water
- Proposed improved rule language regarding a legislative withdrawal

Changes from Public-Hearing Draft (Public Comment)

- **515 Rogue - replace proposed 690-515-0000(1)(a)(D) with the following:**
(D) In accordance with ORS 538.430, the waters of Big Butte Creek, including its tributaries and springs at the head which form the creek, are withdrawn from further appropriation for any purpose except municipal use by the City of Medford, with the exceptions for Eagle Point Irrigation District as provided in ORS 538.430.
- **516 Umpqua - replace proposed 690-516-0005(1)(f) with the following:**
(f) In accordance with ORS 538.140, the waters of Diamond Lake and tributaries **shall not be diverted or interrupted for any purpose and** are withdrawn from further appropriation, except for domestic use on contiguous and surrounding land or other water uses necessary to maintain, increase and perpetuate game fish and game fish propagation in Diamond Lake and its tributaries.
- **517 South Coast - replace proposed 690-517-0000(8) with the following:**
(8) In accordance with ORS 538.120, the waters of Brush Creek (Brushes Creek) and its tributaries are withdrawn from further appropriation **or condemnation, and shall not be diverted or interrupted for any purpose** except for use in state parks or as otherwise prescribed by ORS 538.120.
- **501 North Coast & 518 Mid Coast → no change**

Recommended Change to Final Proposed Rules

- Public comment recommended more comprehensive statutory references in classifications when removing introductory language
- Change “ORS 536.220” to “ORS 536.220, 536.300, 536.310 and 536.340.”

Recommended Change to Final Proposed Rules

- OAR 690-501-0005(1)(e) contains language describing a reservation of water that is statutorily unauthorized and thus should be revised:

(e) The waters of Jetty Creek and its tributaries are classified [*only*] for utilization of water for human consumption, livestock consumption, power development and instream uses for recreation, wildlife and fish life purposes. In addition, up to one cubic foot per second of the waters of Jetty Creek is **reserved** for municipal use;

- Change “reserved” to “classified”

Options & Staff Recommendation

The Commission may consider the following actions:

- Adopt the final proposed rules as set forth in Attachment 2.
- Adopt the final proposed rules as modified by Final Proposed Rules – Addendum 1 (November 16, 2012)
- Decline to adopt the proposed rule revisions and direct the Department to further evaluate the issues.