



State of Oregon
Water Resources Department
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*Invitation
to provide* **COMMENT**

NOTICE OF OPEN PUBLIC COMMENT PERIOD AND RULEMAKING HEARING

OAR Chapter 690, Division 22

The Water Resources Department (Department) is proposing new rules to prioritize stock and human consumption uses of water whenever there is a Governor-declared drought in Klamath County.

The Department filed notice of this rulemaking in the *Oregon Bulletin* published by the Secretary of State on July 1, 2014. Under ORS 183.335(2)(b)(G), the Department is also requesting public comment on whether other options should be considered for achieving the rules' substantive goals while reducing any potential negative economic impact of the proposed rule on small business.

The comment period closes at 5:00 PM, Tuesday, July 29, 2014.

HOW TO COMMENT

Submit written comments to the following address:

Water Resources Department
Attn: Rule Coordinator
725 Summer Street NE, Suite A
By fax at: 503.986.0903, Attn: Rule Coordinator
Or by e-mail: rule-coordinator@wrд.state.or.us

Letters need not be typed, but should be legible, as should any other materials sent. In addition, the public may submit oral and/or written comment regarding these proposed rules at the following public hearing:

July 24, 2014	6-7 pm	Best Western Olympic Inn 2627 S. 6 th Street, Klamath Falls, OR	John Roberts
Hearing Date	Time	Location	Hearings Officer

Auxiliary aids for persons with disabilities are available upon advance request.

To find out more about this rulemaking or to obtain a copy of the rules visit our website at http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/default.aspx?notice_id=37 or contact Nancy Pustis at 503.986.0919.

BACKGROUND:

In March of 2014, the Water Resources Commission passed temporary rules giving preference to water uses for human consumption and stock in Klamath County during the Governor's drought

declaration. The Commission and Department are developing permanent rules, as temporary rules can only be in effect for 180 days.

The combination of drought conditions and regulation of water in favor of senior water right holders will preclude junior water right holders from using water for stock watering or human consumption. ORS 536.750 provides specific statutory authority for the Commission to grant a preference for these uses when, the Governor has declared the existence of a severe, continuing drought.

The purpose of this rule is to prioritize stock and human consumption uses of water during a Governor-declared drought in Klamath County. Human consumption purposes include drinking, cooking and sanitation, which are essential to maintaining basic human health. Stock watering purposes includes the use of water for consumption by animals held in captivity as pets or for profit, a necessity for animal welfare. The rules would allow the continued use of water for stock watering and human consumption purposes by junior water right holders in Klamath County, who would otherwise be regulated off in order to meet the call of senior surface water rights in the Klamath Basin during a Governor-declared drought.

The rules allow holders of rights for appropriating water for stock watering or human consumption use under a junior priority date to continue using water for these purposes, notwithstanding regulation of water in favor of senior water rights. Failure of the Commission to timely act during a Governor-declared drought will result in serious prejudice to the junior water users who would not, but for this rule, have access to water for human consumption or stock watering uses. A lack of water for human consumption and stock watering uses would have significant negative health and welfare consequences for the affected junior water users.

Documents Relied Upon, and where they are available:

U.S. Department of Agriculture, National Agricultural Statistics Service. 2012 Census of Agriculture, Volume 1, Chapter 2: County Level Data for Oregon.
http://www.agcensus.usda.gov/Publications/2012/Full_Report/Volume_1,_Chapter_2_County_Level/Oregon/

United States Census Bureau. United States Census State and County Quick Facts. Accessed 2014, June 2. <http://quickfacts.census.gov/qfd/states/41/41035.html>.

Cullinane Thomas, C., C. Huber, and L. Koontz. 2014. 2012 National Park visitor spending effects: Economic contributions to local communities, states, and the nation. Natural Resource Report NPS/NRSS/EQD/NRR—2014/765. National Park Service, Fort Collins, Colorado.
http://www.nature.nps.gov/socialscience/docs/NPSVSE2012_final_nrss.pdf

POSSIBLE FISCAL IMPACTS OF THE PROPOSED RULES:

According to the 2012 Census of Agriculture, Klamath County had approximately 74,371 heads of cattle and calves, and approximately 3,491 sheep and lambs. Other types of livestock and poultry are raised in the basin, representing much smaller numbers than these two. Cattle are an

important industry in the basin with 48,282 cattle and calves sold in 2012. The value of cattle and calves sold in the basin was \$50,129,000, while the value of milk sold was \$25,036,000. In sum, the market value of agricultural products sold in the basin including livestock, poultry and products was \$78,907,000.

In 2013, it was estimated that the cost of trucking water to meet the needs of Crater Lake National Park would have been approximately \$210,000 per month. According to the 2012 National Park Visitor Spending Effects report, Crater Lake National Park contributes to the regional economy, with non-local visitors to the Park spending approximately \$36 million.

Without these rules, water right holders with human consumption or stock uses could be regulated off during a Governor-declared drought in Klamath County, which could require the purchase of water from another source, such as bottled water or arranging to have water trucked in. In addition, without the preference, cattle could be shipped out of the basin to other areas or sold off prematurely. These rules result in cost savings to those water right holders as they can use their traditional water supply.

This also could result in cost savings to political subdivisions and their customers, should they need to exercise the preference. Despite having to assure curtailment of other uses, the preference allows these entities to continue to serve water for human consumption and stock purposes, thereby preventing them from having to contract or truck in water for human health and welfare.

THE REVIEW PROCESS:

Please present your comments regarding these proposed rules by speaking at the public hearing listed below, or by sending your written comments by mail, email, or fax to the Water Resources Department at the address listed below. Written comments must be received no later than 5:00 PM, Tuesday, July 29, 2014. It is your responsibility to verify that faxed or emailed comments are received.

The Water Resources Commission is likely to consider this rule adoption at its meeting on August 21 or 22, 2014. The Water Resources Commission may choose to receive additional oral public comment and written testimony on the proposed rules as part of an agenda item at any future Commission meeting. Written testimony presented to the Commission after the public comment period has closed 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 Nancy Pustis at 503.986.0919. You may also obtain a copy of the existing rules on the Department's web page at http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/default.aspx?notice_id=37

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) 986-0878, at least 48 hours prior to the hearing.