



Oregon

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Water Resources Department

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MEMORANDUM

TO: Water Resources Commission

FROM: Dwight French, Water Right Services Administrator

SUBJECT: Agenda Item F, November 20, 2014
Water Resources Commission Meeting

Update on Scenic Waterway Designation

I. Introduction

During this agenda item, staff will provide an update on scenic waterway efforts that are underway and what the next steps will be with regards to the consideration of scenic waterway designations. This is an informational item and no Commission action is required.

II. Background

In September 2013, the Governor directed Oregon Parks and Recreation Department (OPRD) to analyze at least three waterways for potential scenic waterway designation every two years. The purpose of the Scenic Waterways Act (ORS 390.805 to 390.925) is to preserve for the benefit of the public selected parts of the state's free-flowing rivers.

New state Scenic Waterway designations are permitted under ORS 390.855, which allows for the Governor to designate the waterways based on study and a recommendation by the Oregon State Parks and Recreation Commission, and concurrence in that recommendation by the Oregon Water Resources Commission. New State Scenic Waterways have not been designated since 1988, however, and the process for undertaking such designations is not well-defined. Therefore, Department staff have been coordinating with OPRD to identify the process for developing recommendations for designation.

Based on past experience, OPRD believes that the success of each new State Scenic Waterway is dependent on balancing the waterway protection with the development interests of area property and business owners. It is also important that OPRD and local proponents develop a strong partnership in environmental stewardship efforts and promotion of recreation opportunities along the waterway. Other OPRD heritage and recreation designation programs, such as State Scenic Bikeways, depend on clear local support before earning an official designation. As OPRD staff studied the candidate streams and listened to public feedback, they realized the same approach is advisable for scenic waterways.

Based on that approach, OPRD staff proposed, and the Department agreed, that the Oregon State Parks and Recreation Commission¹ only recommend the Governor designate a new state scenic waterway, and request concurrence in that recommendation from the Oregon Water Resources Commission, if three conditions are met:

1. The waterway physically qualifies, as described in statute;
2. Feedback from general public, direct stakeholders, and any affected county government supports designation, as described in statute;
3. An organized group, including local proponents, requests designation and present at least a basic management plan drafted in cooperation with OPRD staff or one of its advisory committees.

III. Status on Identifying Sections for Designation

An initial screening of all Oregon waterways by a broad coalition of agencies and stakeholders resulted in a list of approximately 80 river segments that have the potential to meet the State's waterway designation criteria. To provide geographical distribution throughout the State, sections of the Molalla, Chetco, and Grande Ronde Rivers were included in the 2013-15 pilot study to determine whether these stretches could qualify for scenic waterway designation.

An individual qualification report was developed by OPRD staff for each of the three sections. These reports will be provided at the Commission meeting if available. According to the reports, both the Chetco and Molalla River study areas meet the required Scenic Waterway eligibility criteria and have significant public support for designation into the program. The report for the Grande Ronde River study area, however, concludes that this section does not meet the eligibility criteria and has significant public opposition to the potential scenic waterway designation.

According to OPRD staff, of the three river sections studied in 2014, the Chetco and Molalla meet the first two conditions proposed above, which will be documented in the qualification reports. In order to fulfill the third condition, OPRD intends to form an advisory committee consisting of direct stakeholders and local Scenic Waterway proponents to develop a sound management plan outline later in 2015. During that same time OPRD will work with the Department to coordinate review of the proposals, including the development of proposed scenic waterway flows, and development of recommendations to the Water Resources Commission to allow for timely concurrence with any future Parks Commission recommendation.

IV. Water Resources Considerations

A new scenic waterway designation has no effect on permits or certificates already issued or on applications filed before the date of the new designation. However, as outlined below, scenic waterway designations can affect new water right applications that are submitted after the designation.

¹ The OPRD Commission is scheduled to meet on November 19, 2014 in Astoria and will receive a similar briefing from OPRD staff.

1. New impoundment structures are not allowed on the designated reach or within a quarter mile of the designated reach. Reservoirs may be permitted outside of the quarter mile reach if water is available and scenic waterway flows are met.
2. New exempt surface and ground uses are allowed as long as the related structures are consistent with the OPRD's management plan. No authorization from OWRD is required.
3. Applications for water right permits for human consumption use can be approved within or above the lower end of a scenic waterway if there are no other reasonable alternatives for the water supply. The statute limits the issuance of these permits to a cumulative total of 1.0 cubic foot per second (cfs). This means that up to 200 permits for human consumption purposes can be issued at a rate of 0.005 cfs (equal to about 2.24 gallons per minute).
4. Scenic waterway flows are subtracted from the estimated natural flow in the Department's water availability database just like an instream water right. This means that designation can lead to less water available for subsequent surface water appropriation above and within the designated sections.
5. Designation can also lead to less water available for future groundwater appropriation. Groundwater applications can be denied if it is found that new groundwater appropriations will cumulatively reduce the scenic waterway flows by 1.0 cfs. The 1.0 cfs in this instance is separate from the 1.0 cfs allocated to human consumption permits. All groundwater permits issued after the scenic waterway is adopted include a condition that may require the permit holder to mitigate for their impacts to the scenic waterway if it is determined at a later date that groundwater appropriations are measurably reducing the scenic waterway flows.

VI. Next Steps

At the Commission's August meeting in Hood River, the plan at that time was for the Commission in November to concur in the Oregon Parks and Recreation Commission's recommendation of up to three river reaches for designation as new scenic waterways, as well as adopt flows necessary to support the recommended scenic waterway sections.

As explained earlier in this report, the goal now is to make these recommendations later next year.

Over the next year, while OPRD develops management plans for the Chetco and Mollala Rivers, Department staff will begin the process of developing a flow recommendation for each section. Department staff will then present this flow recommendation for adoption by the Commission, possibly at the November 2015 meeting, in which the Commission will also consider whether to concur in recommending these reaches for scenic waterway designation.