

# Regulation of Groundwater in the Off-Project Area, Klamath Basin OAR Chapter 690, Division 25

Oregon Water Resources Commission

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# Rule Development

***April 2014***

***Upper Klamath Basin Comprehensive Agreement requires OWRD to recommend adoption of groundwater regulation rules consistent with the Agreement***

***May 2014***

***Oregon Water Resources Commission directs the Department to:***

- convene a rules advisory committee***
- draft rules for their consideration***

# **Rule Development**

## ***Rules Advisory Committee***

***Upper Klamath Basin irrigators***

***Klamath Tribes***

***Crater Lake National Park***

***Klamath Water Users***

***WaterWatch of Oregon***

***Water For Life***

***The Nature Conservancy***

***City of Klamath Falls***

***U.S. Geological Survey***

# Rule Development

*Five Open House Meetings*

*Four Rules Advisory Committee Meetings*

*60-Day Comment Period*

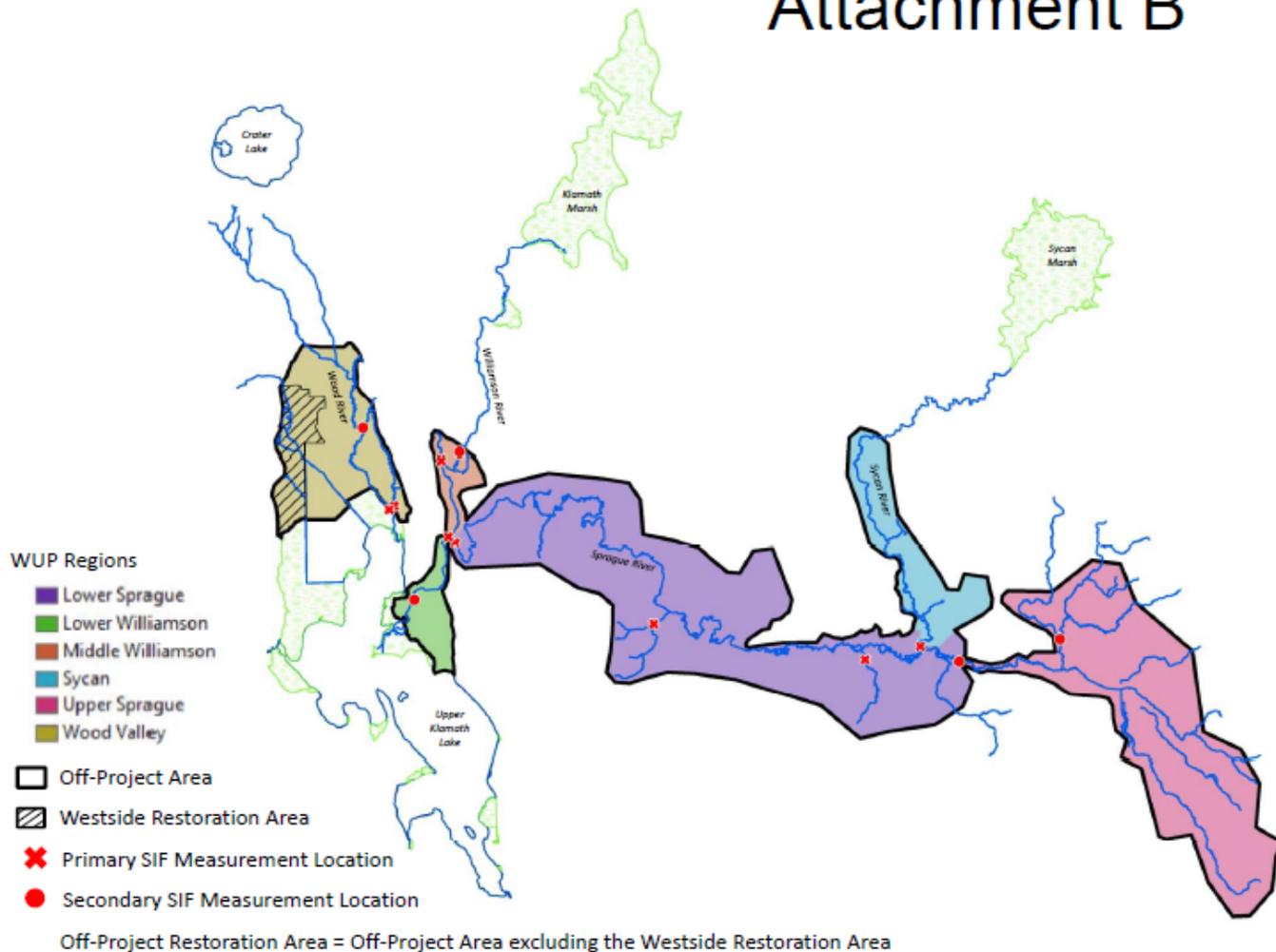
*Three Public Hearings*



Spring Creek

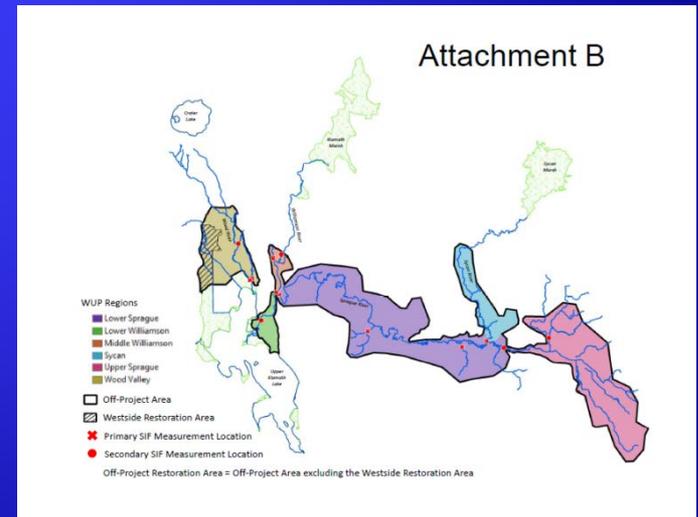
# Draft rules constitute a “local rule”

## Attachment B



# Authority to Adopt a Local Rule

- *Statutory Authority*
- *Local Rule Provision in Division 09*



# Integrated Rules

## *Current Regulatory Structure*

### Division 09

- 1) Hydraulic Connection
- 2) Potential for Substantial Interference
- 3) Effective and Timely Determination

## *After Adoption of Division 25*

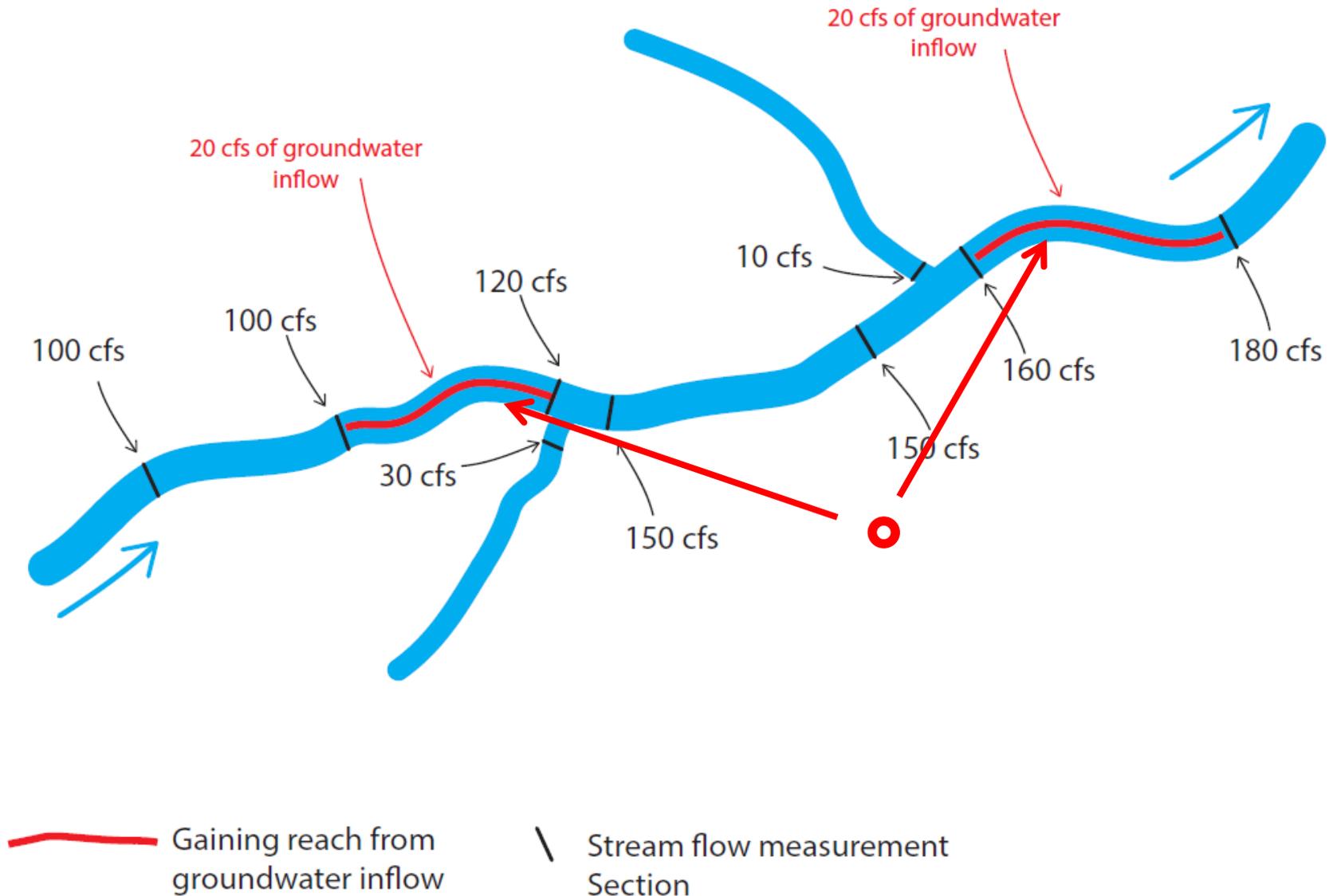
### Division 09

- 1) Hydraulic Connection
- 2) Potential for Substantial Interference

### Division 25

- 3) Effective and Timely Determination

# Gaining Reaches

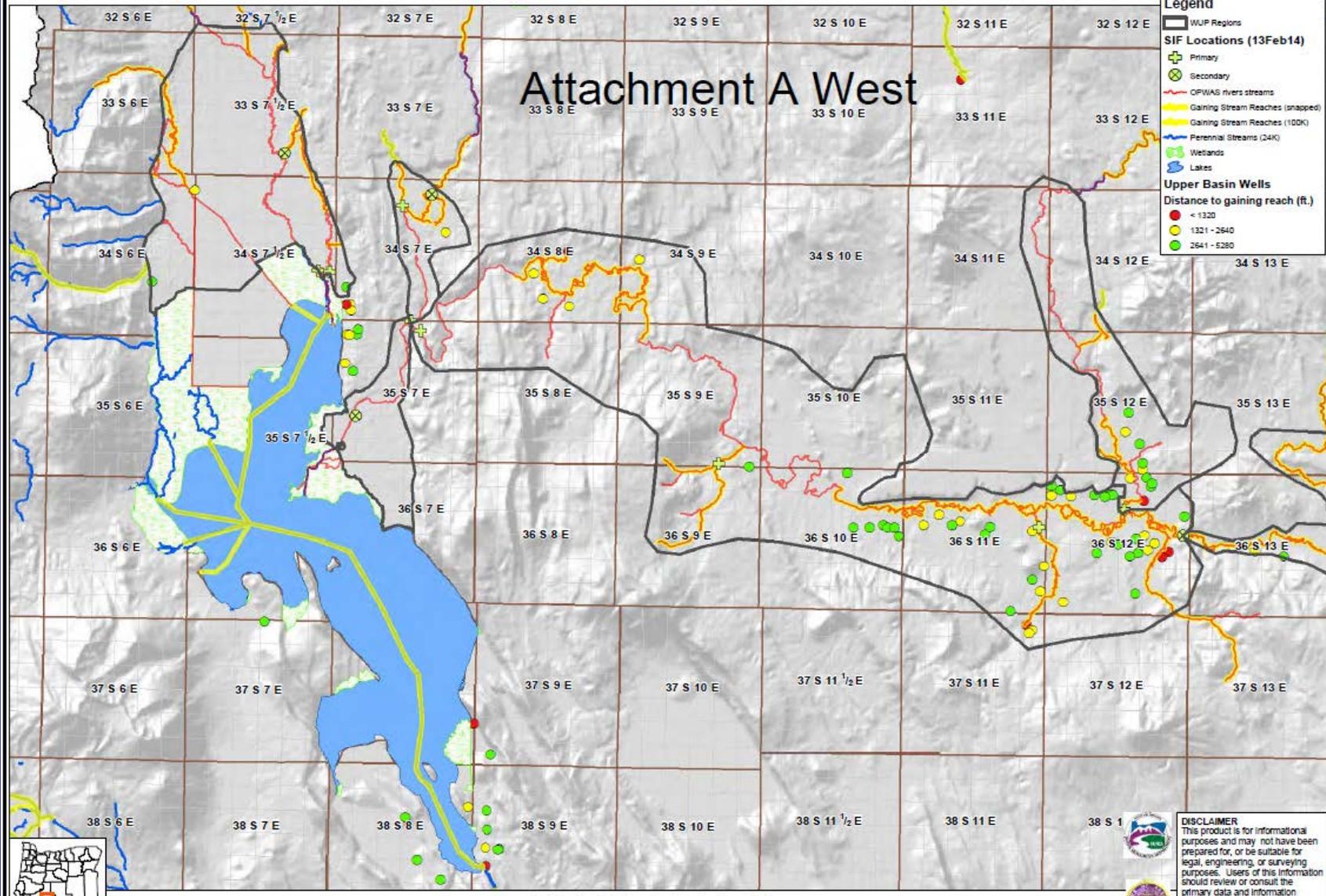


West Portion of Sprague River Drainage

# Attachment A West

**Legend**

- WUP Regions
- SIF Locations (13Feb14)
  - Primary
  - Secondary
- OPWAS rivers streams
- Gaining Stream Reaches (snapped)
- Gaining Stream Reaches (100K)
- Perennial Streams (24K)
- Wetlands
- Lakes
- Upper Basin Wells
  - Distance to gaining reach (ft.)
    - < 1320
    - 1321 - 2640
    - 2641 - 5280



Map prepared 5/4/2014, by the OWRD DW & IS sections (see 8.m); source file: C:\s\g\m\c\_s\water\dam\sh\3\upperbasin\part\3\3\m\basin\wells\ind\basin\wells\_m\basin\basin.mxd

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 This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

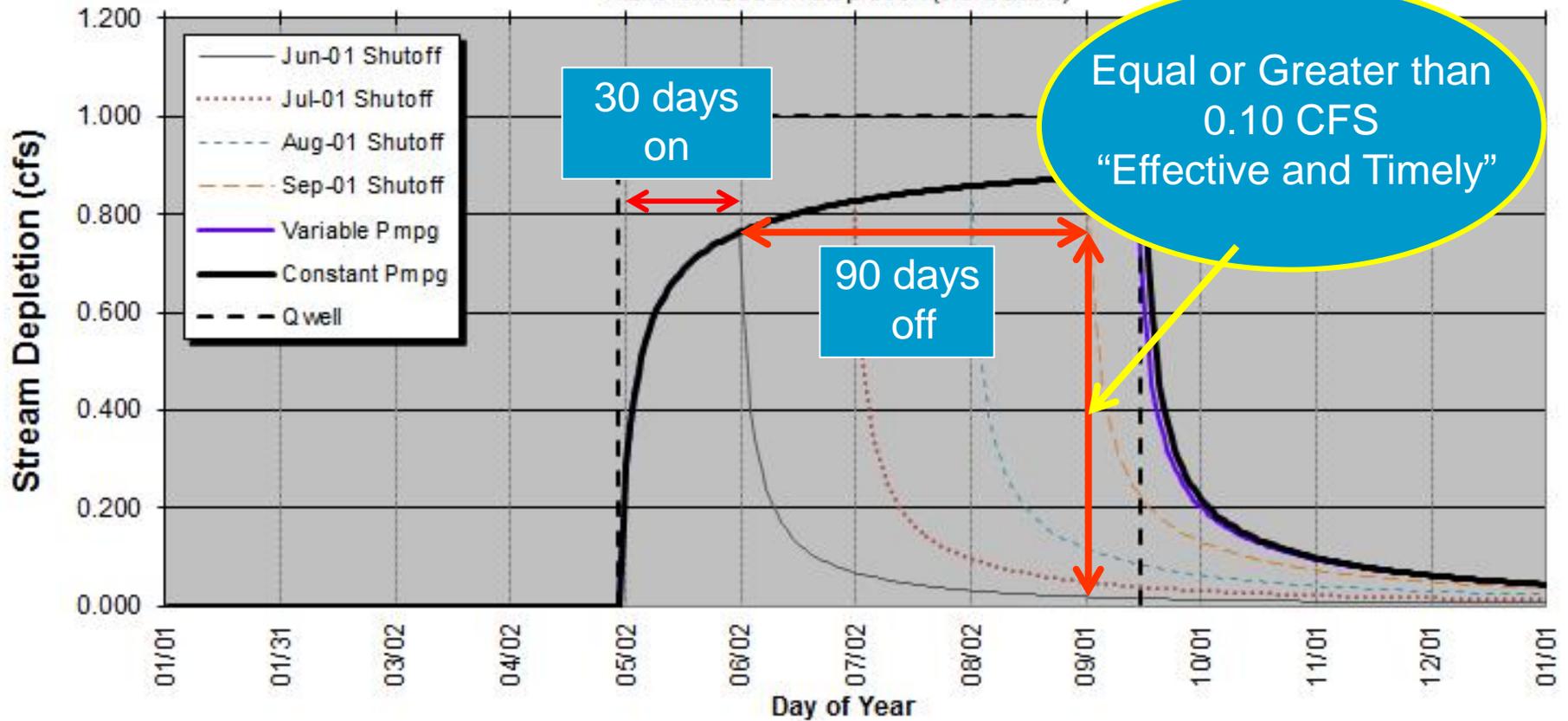
# Distance to a gaining stream reach

Water Right Flow Target	< ¼ mile	¼ - ½ mile	>½ - 1 mile	> 1 mile
Met				
Less than 5% short	✓			
5 – 10% short	✓	✓		
Greater than 10% short	✓	✓	✓	

# The Timeliness Test

## KLAM 2431 207 feet

Transient Stream Depletion (Hunt 2003)



# Number of Wells

## *Division 09*

*Wells within one mile of a stream*                      97 wells

## *Division 25*

*Wells within one mile of a gaining reach*      75 wells      14.47 cfs

## *Effective and Timely Test*

*Wells greater than 0.10 cfs*                      34 wells      14.0 cfs

*Wells less than 0.10 cfs*                          41 wells      0.47 cfs

# Public Comment

- *Four people testified*
- *Sixteen written comments received*
- *Groundwater Advisory Committee*

*Instream water rights*

*Exempt uses*

*Burden of proof*

*Wells closer to the stream*

*If the Settlement Agreement terminates*

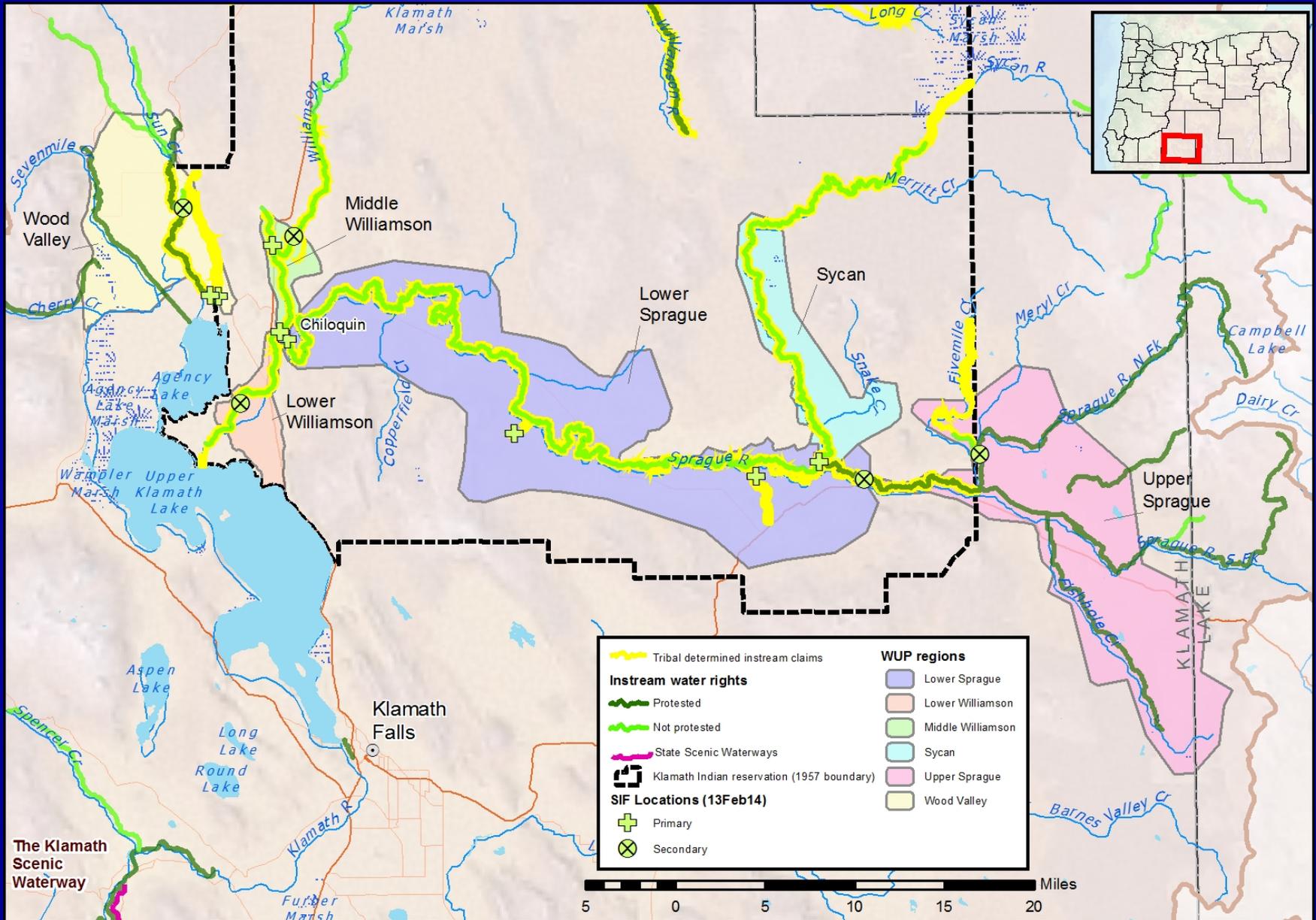
# State Instream Water Rights

- *Held in Trust*
- *Monitored and Managed*
- *Regulation by Priority Date*



*Wood River*

# Instream Water Rights and Tribal Determined Claims



# Exempt Uses

- *Domestic, ½ ac non-comm lawn and garden, stockwater, small industrial and manufacturing, etc*
- *Exempt from permitting process, not regulation*
- *Unlikely to meet Effectively and Timely test*

# Burden of proof

- *Division 09 requires findings*
- *OWRD has responsibility for findings*
- *User opportunity for additional information*
- *No change in responsibility under Division 25*

# Wells Moving Closer to the Stream

- *Agreement provides for replacement wells*
- *Moving wells into next distant category*
- *Moving wells into closer category*
- *Replacement wells invoke injury review*

# If the Settlement Agreement Terminates...

*“If the Settlement Agreement terminates, groundwater regulation in the Off-Project Area will be in accordance with OAR 690-009”*

# Alternatives

1. Adopt the proposed final OAR 690, Division 25 rules governing regulation of groundwater in the Off-Project Area of the Klamath Basin as provided to the Commission in Attachment 1.
2. Not adopt the rules and direct staff to rely on the existing OAR 690-009 authority to address regulation of groundwater in the Off-Project Area.

# Alternatives

The Director recommends alternative 1:

1. Adopt the proposed final OAR 690, Division 25 rules governing regulation of groundwater in the Off-Project Area of the Klamath Basin as provided to the Commission in Attachment 1.
2. Not adopt the rules and direct staff to rely on the existing OAR 690-009 authority to address regulation of groundwater in the Off-Project Area.

# Questions ?



*Brown Creek*