

# Agenda Item L

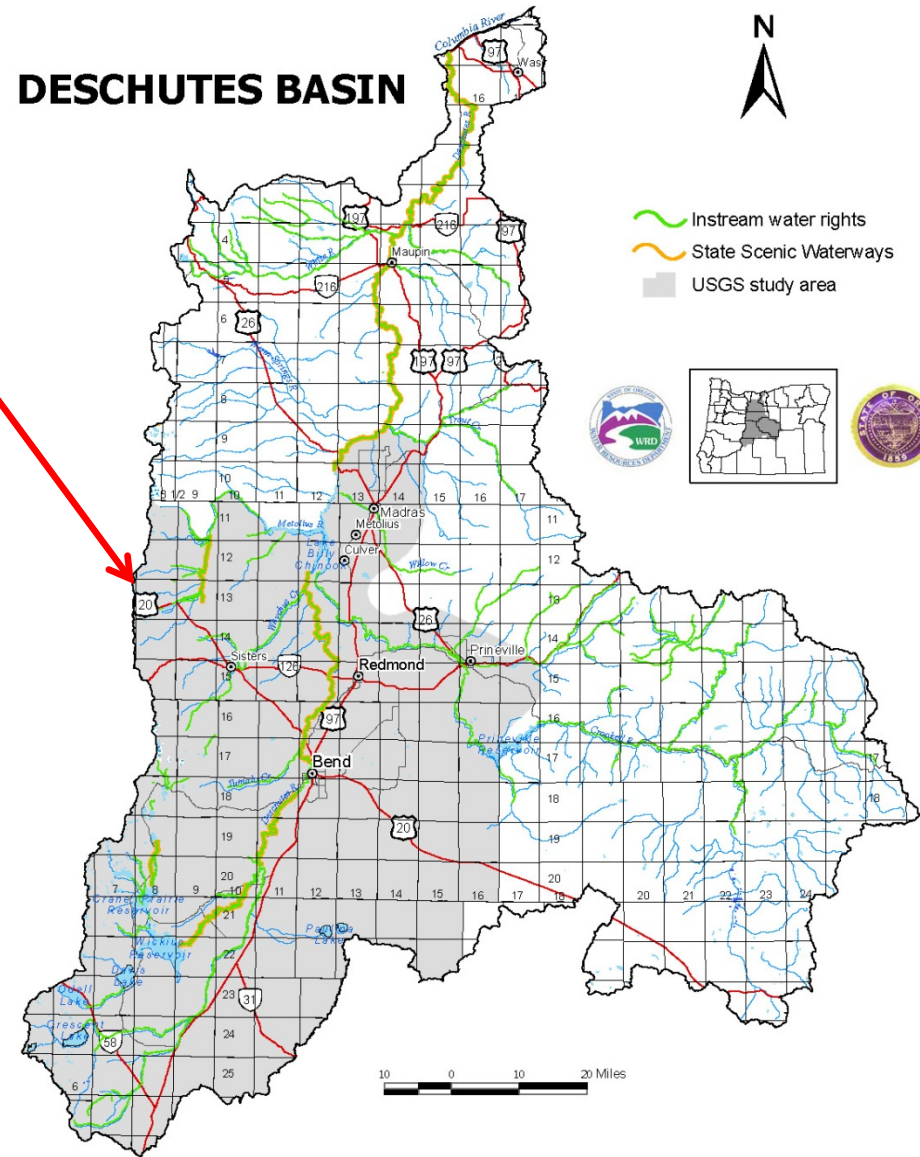
Request for Amendment of Rules

OAR 690-522-0030 & -0050

Deschutes Basin Water  
Management Rules

# Background

1. Mitigation or offset required in DGWSA for new groundwater permits.
2. By rule, we have a 200 cfs cap on final orders and permits.
3. Temporary mitigation is cheaper than permanent mitigation.
4. In 2010, the Division 522 rules were adopted:
  - A. Cap Management
  - B. Re-Use of Permanent Mitigation Credits if water right cancelled
5. This is a simple rulemaking.



# Need for Rule Change

## *Simple but Technical*

1. When a permit or certificate that debited water from the 200 cfs cap is later cancelled, the 200 cfs cap should be credited with the amount cancelled.
2. Current rule limits the method of cancellation to select methods of cancellation.
3. The proposed amendments would allow water to be added back to the cap if water right is cancelled for any reason.
4. A similar problem exists for permanent mitigation credits. Proposed amendments would allow permanent credits to be re-assigned if water right is cancelled for any reason.

## Need for Rule Change - continued

- **Cancelled Permits Affected by Current Rules:**
  - **7 Permits Cancelled as of 6/1/2015 (0.549 CFS)**
    - 3 Voluntarily Cancelled
    - 4 Cancelled under ORS 537.260
      - 1 with 9.0 Permanent Mitigation Credits
- **No certificates, issued under this program, have been cancelled to date.**

# RAC Participants

**Martha Pagel, attorney, Schwabe Williamson & Wyatt**

**Kimberley Priestley, WaterWatch**

**John Short, Deschutes Irrigation LLC**

**Gen Hubert, Deschutes River Conservancy**

**Adam Sussman, GSI Water Solutions (for City of Bend)**

**Leslie Clark, Central OR Irrigation District (for Deschutes Basin Board of Control)**

# Public Comment

- **Public Hearing held March 30, 2015 in Bend**
  - **Oral Testimony Provided**
    - Peter Goodmonson (cancelled permit with permanent mitigation credits attached)
    - John Short (consultant)
- **Comment Deadline March 31, 2015**
  - **Written Comment Received**
    - Peter Goodmonson

# Comments and Response

- Oral testimony and written comments provided in support of the proposed rule amendments.

## Alternatives & Recommendation

1. **Adopt the final proposed rules in Attachment 1.**
2. **Adopt modified final proposed rules.**
3. **Not adopt the proposed rules and request that the Department further evaluate the issues.**



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