

Division 504: Hood River Basin Program Amendments



August 2016

Agenda Item F

Water Resources Commission Meeting

Brenda Bateman, TSD Administrator

Overview



- **Background**
- **Rule-Making Process**
- **Public Comment and Department Response**
- **Request for Action**

Background



- **Reservation** – sets aside unappropriated water for future economic development in a basin; assigns priority date.
- **Reservations in six sub-basins of the Hood River Basin are set to expire October 17 unless extended by rule-making.**

The Hood River Sub-basins are:
East Fork Hood River
Eightmile Creek
Fifteenmile Creek
Mosier Creek
Neal Creek
West Fork Hood River
(See Attach. 1 for more details)

Background



- **Reservation** – sets aside unappropriated water for future economic development in a basin; assigns priority date.
- Reservations in six sub-basins of the Hood River Basin are set to expire **October 17, 2016**, unless extended by rule-making of the Commission.
- See **Division 79 rules (modified 4/16)** for process standards.
- This agenda item seeks **Commission action** to do the following...

Background



Adopt proposed amendments*:

- **Extend reservations to Oct. 17, 2036**
- **Modify agency reporting requirements**
- **For any water right application drawing upon this reservation, require consultation with affected Indian Tribes (defined “Indian Tribe,” “Consultation”)**
- **Update rule language (note terminology & withdrawal)**
- **Expand classified uses of water (to include agricultural, commercial, and flow augmentation)**

(*See Attach. 2 for full text of Proposed Final Rules)

2016 Rulemaking Process



- **April 19:** Rules Advisory Committee convened in Hood River (Attachment 3 lists attendees).
- **June 1-30:** Written public comment accepted.
- **June 22:** Public hearing held in Hood River, Commissioner Baumgartner, presiding.
- **Aug. 19:** Commission action requested.

Public Comment & Department Response



- Attachment 4 contains written public comments, both suggesting edits.
- Attachment 5 contains verbal public comments, both supportive.
- The Department has made no modifications to the hearing draft.

Public Comment & Department Response



- **Comments from the Confederated Tribes of the Warm Springs Indian Reservation:**
 - **More stringent consultation. Response:** had already added definition of consultation, requiring it in the processing of any water rights that come in under this reservation.
 - **More stringent protection for the environment and for tribal water rights. Response:** These are already accounted for in water availability calculations and water right permit application process.

Public Comment & Department Response



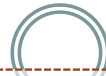
- **Comments from WaterWatch of Oregon:**
 - **Oppose reservation extension, due to lack of reporting. Response: WRC had previously determined that faulty reporting was not a fatal flaw in the extension of reservations.**
 - **Supports several language changes that were made.**
 - **Suggest tying consultation with ODA found in OAR 690-504-0100(7a) to purpose of the reservation, which is economic development found in OAR 690-504-0100(1). Response: made no change; paragraphs are to be read in concert.**
 - **Suggest keeping the phrase “automatically repealed” in OAR 690-504-0100(9a). Response: staff recommends a change to “shall be effective until,” to make consistent with language in Div. 509 (Burnt River), adopted by the Commission in Feb. 2016.**

2 Proposed Edits



- **OAR 690-504-0100(5)(C) Add “Documentation of...”**
- **Fix numbering in 690-504-0100(8), (9), (10).**

Request for Commission Action

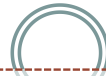


The Commission may consider the following alternatives:

- 1. Adopt the proposed rules in Attachment 2**
- 2. Adopt proposed rules as modified by the Commission.**
- 3. Not adopt the rules and provide the Department with further direction.**



Request for Commission Action



The Commission may consider the following alternatives:

1. Adopt the proposed rules in Attachment 2
2. Adopt the proposed rules as modified by the Commission.
3. Not adopt the rules and provide the Department with further direction.



Thank You



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