

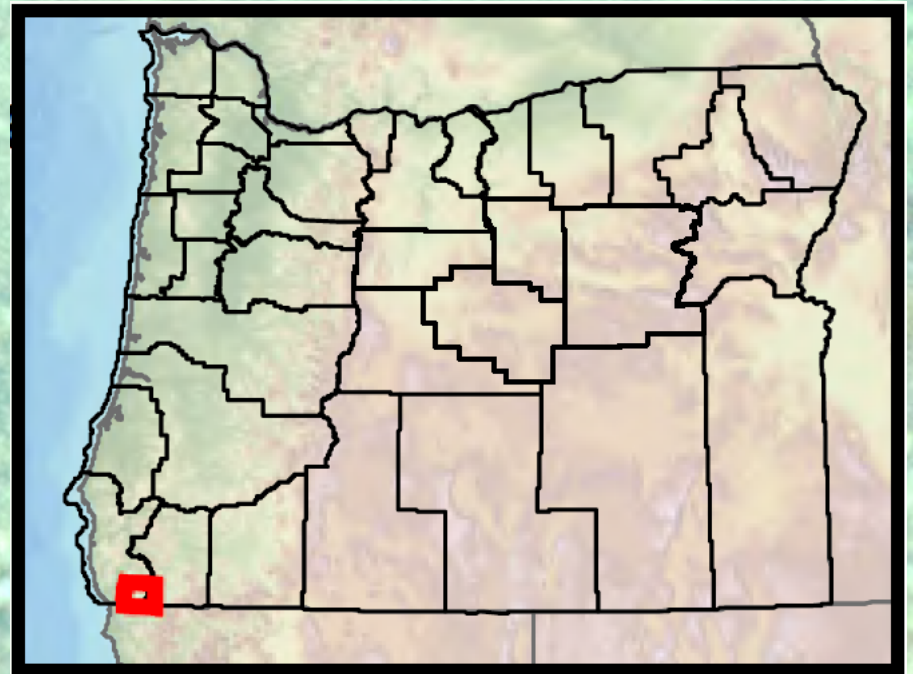


PREVIEW OF UPCOMING RULEMAKING: DIVISION 517 - SOUTH COAST BASIN PROGRAM RULEMAKING TO RECLASSIFY THE WATERS OF THE SMITH RIVER WATERSHED IN CURRY COUNTY

Racquel Rancier, Senior Policy Coordinator

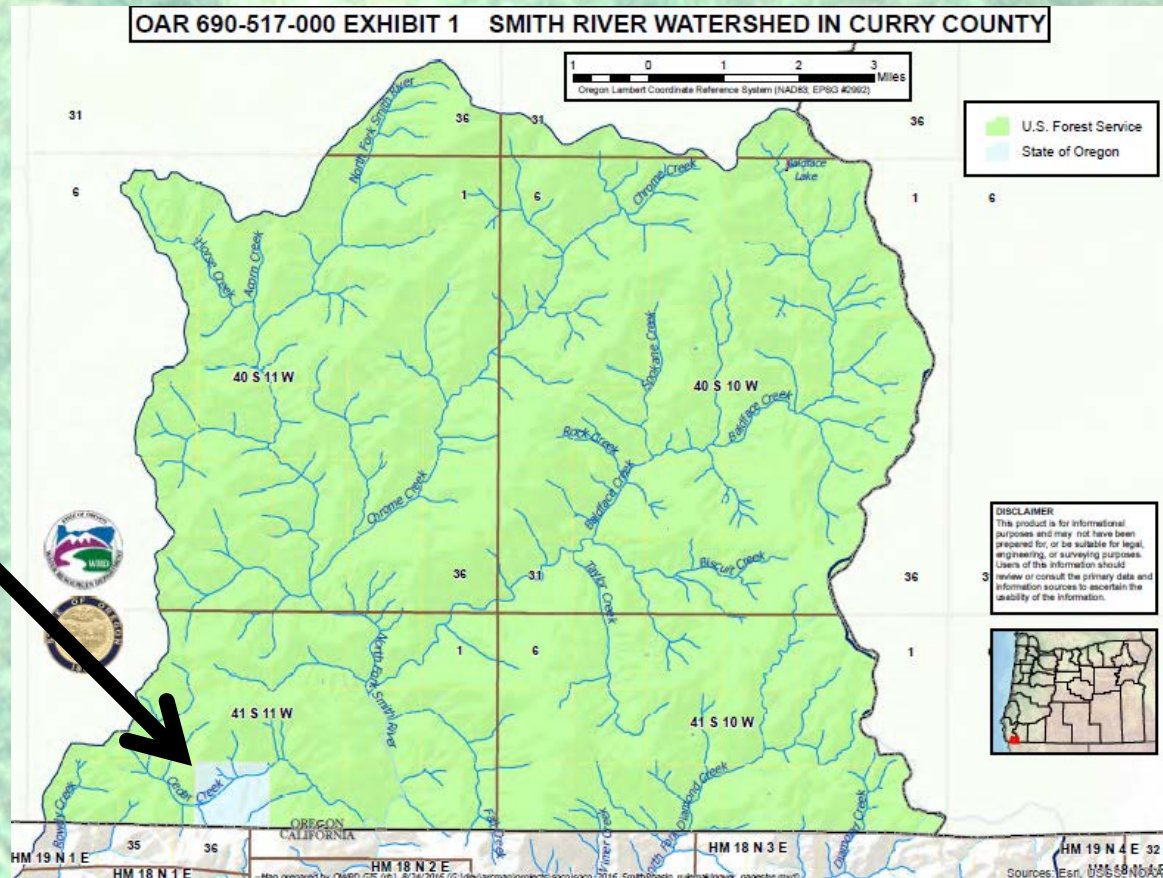
Overview

- **Background**
- **Review of Rulemaking for Classification**
- **Next Steps**



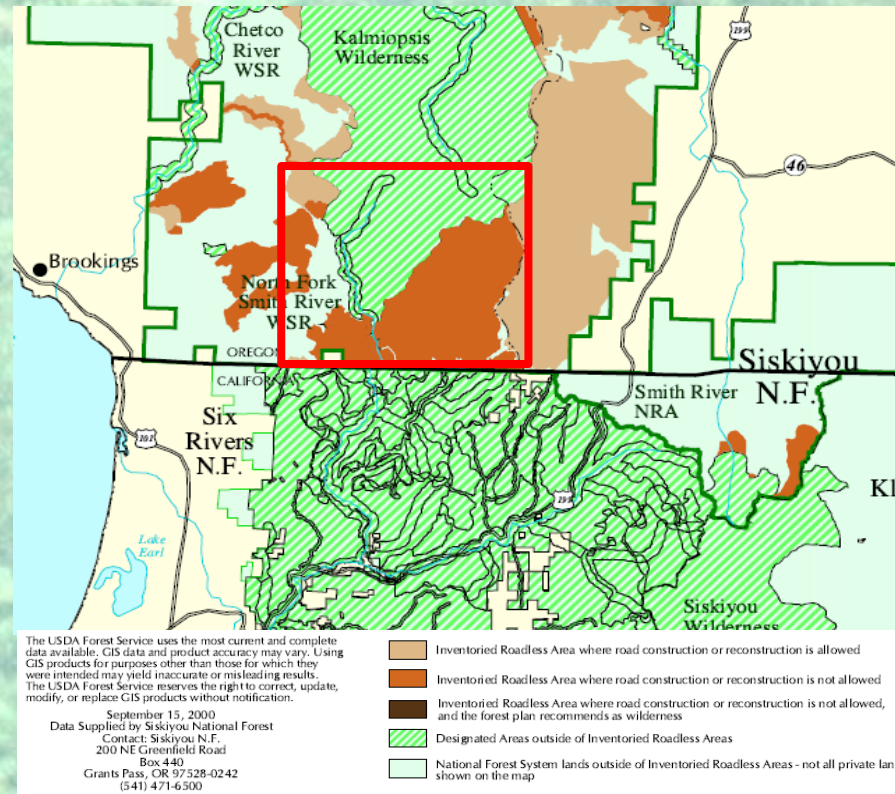
Background

- **Public Ownership:**
 - **Mostly U.S. Forest Service (green)**
 - **Oregon Dept. of State Lands (blue)**



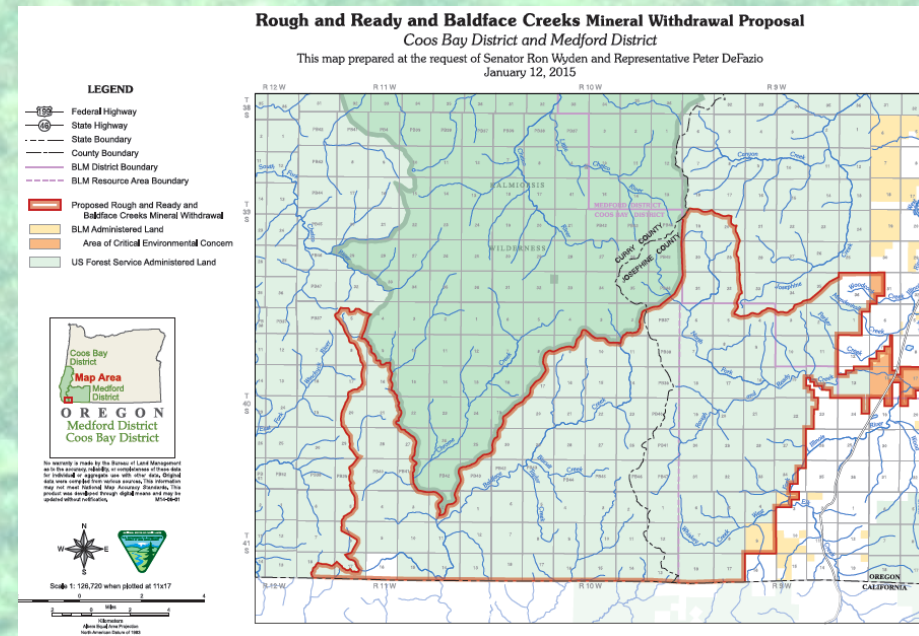
Characteristics of the Watershed

- 13 miles of Federal Wild and Scenic River
- Kalmiopsis Wilderness
- South Kalmiopsis and Packsaddle Inventoried Roadless Areas
- Low use and limited access
- Fisheries and Plants
 - Northwest Forest Plan key watershed
 - Critical habitat for threatened Coho salmon



Federal Withdrawal

- January 2017 public land order, 20-year withdrawal:
 - does not prevent development of existing valid mining claims



Other Agencies' Actions

- **DEQ rulemaking to consider designating the Smith River Watershed as an Outstanding Resource Water**
 - **outstanding state resource due to extraordinary water quality or ecological values**
 - **or to maintain critical habitat areas**
- **Environmental Quality Commission likely to consider proposed rule in June 2017**

Petition for Withdrawal

- **Received August 2015 - Proposed to withdraw all surface and groundwater from appropriation except for instream, and including exempt uses**
- **November 2015 - Commission directed staff to undertake a basin program amendment to classify the waters for instream uses**
- **Issuing withdrawal order legally problematic**

Overview of Classifications

- **Classification of sources of water has the effect of restricting the new uses allowed for new water rights to those that are specified by the classification**
- **No other uses are allowed, except:**
 - **uses that do not require a water right**
 - **alternative reservoirs**
 - **other uses as allowed by law or approved by the Commission**

Considerations

- **ORS 536.220 provides for an “integrated state water resources policy”**
 - ▣ **actions to facilitate “the maximum beneficial use and control**
 - ▣ **consideration of the “multiple aspects” of water use**
- **ORS 536.310 - outlines purposes and policies to be considered**
 - ▣ **12 components - summarized in the staff report**

Review of Proposed Rules

- **Current classified uses:**
 - **Domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife, and fish life uses**

- **Proposed rules classify:**
 - **surface waters for human consumption, livestock, and instream public uses (including pollution abatement, fish life, wildlife and recreation)**
 - **groundwater for exempt uses outlined in ORS 537.545**

Rulemaking Process

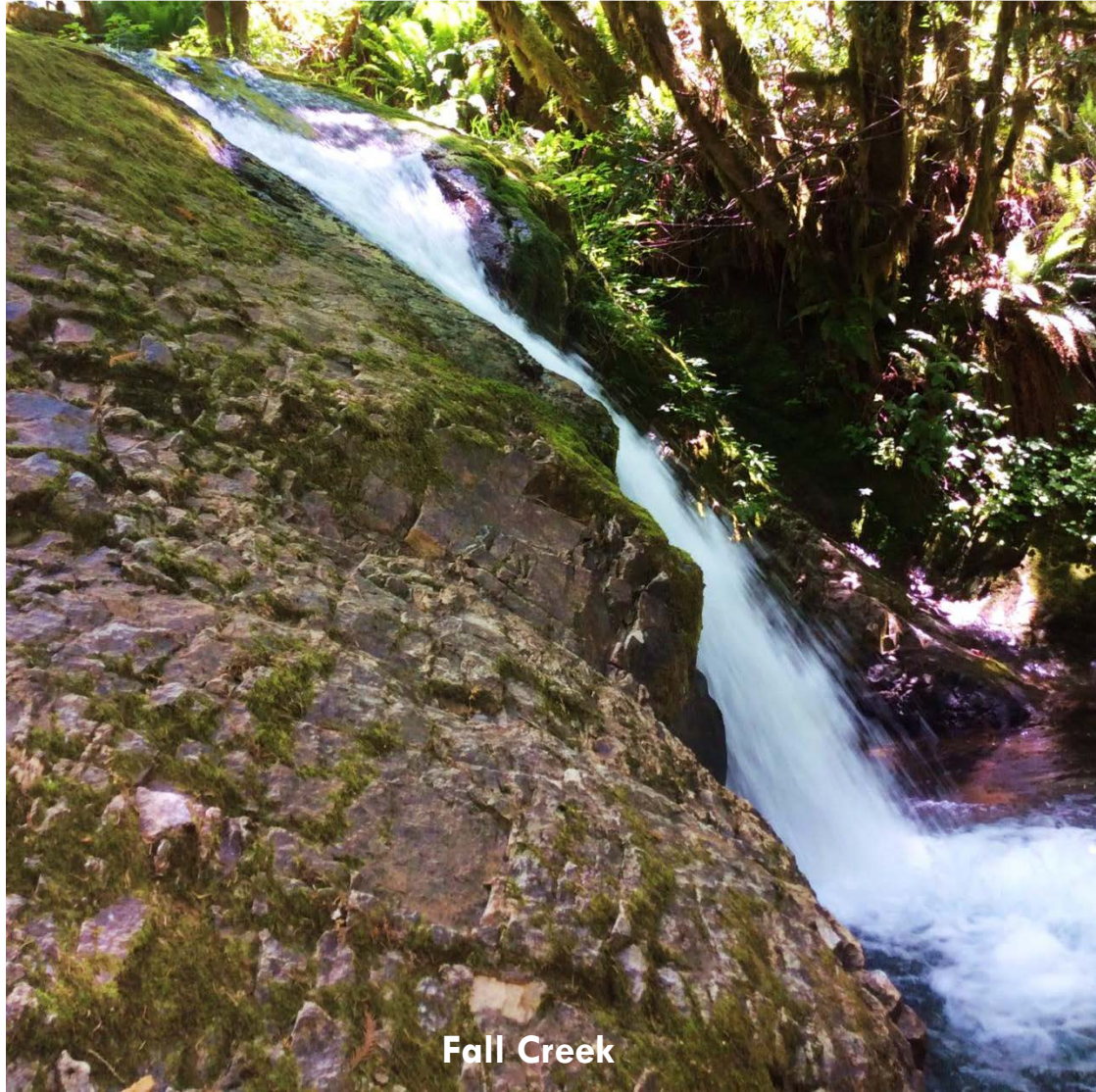
- ❑ **RAC was held June 30, 2016 in Brookings, OR**
- ❑ **Notice of rulemaking was published in the September 2016 Oregon Bulletin**
- ❑ **September 28, 2016 request to extend the public comment deadline by 30 days**
- ❑ **Public Hearing was held in Brookings on September 29, 2016**
- ❑ **Public comment period closed on October 28, 2016**
- ❑ **Received over 2,000 comments**

Next Steps

- **Staff are reviewing and evaluating the public comments**
- **Commission consideration of rules later this year**



Questions?



Fall Creek