

CERTIFICATE AND ORDER  
FOR FILING  
**PERMANENT**  
ADMINISTRATIVE RULES WITH THE SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on June 3, 1994  
(Date)

by the Water Resources Department Field Services and Enforcement  
(Department) (Division)

to become effective upon filing  
(Date)

The within matter having come before the Water Resources Commission after  
(Department) (Division)

all procedures having been in the required form and conducted in accordance with applicable statutes and rules and being fully advised in the premises:

Notice of Intended Action published in Secretary of State's Bulletin: NO  YES  Date Published: April 1, 1994

NOW THEREFORE, IT IS HEREBY ORDERED THAT the following action be taken: (List Rule Number(s) or Rule Title(s) on Appropriate Lines Below)

Adopted:  
(New Total Rules) \_\_\_\_\_

Amended:  
(Existing Rules) 690-11-010

Repealed:  
(Total Rules Only) \_\_\_\_\_

as Administrative Rules of the Water Resources Department  
(Department) (Division)

DATED this 14 day of June, 1994

By:   
(Authorized Signer)

Title: Director

Statutory Authority: ORS 390.835(1), 536.027 or

Chapter(s) \_\_\_\_\_, Oregon Laws 19\_\_\_\_ or

House Bill(s) \_\_\_\_\_, 19\_\_\_\_ Legislature; or Senate Bill(s) \_\_\_\_\_, 19\_\_\_\_ Legislature

Subject Matter:  
The existing rule definition of placer mining (OAR 690-11-010(33)) was inconsistent with ORS 390.835 (1), as evidenced by Attorney General's Opinion No. 8228, issued on February 24, 1994. The opinion states that all placer mining is prohibited under the statutes. Therefore, OAR 690-11-010 (33) was repealed.

For Further Information Contact: Beth Patrino Phone: 378-8455 (x-299)  
(Rule Coordinator)

## DEFINITIONS

690-11-010 The following definitions apply in OAR Chapter 690, Divisions 11 and 15, and to any permits, certificates or transfers issued under these rules:

- (1) "Affected local government" means any local government as defined in OAR 690-05-015 within whose jurisdiction water is or would be diverted, conveyed, or used under a proposed or approved permit, water right transfer, or certificate.
- (2) "Agricultural water use" means the use of water related to the production of agricultural products. These uses include, but are not limited to, construction, operation and maintenance of agricultural facilities and livestock sanitation at farms, ranches, dairies and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, animal waste management, barn or farm sanitation, dairy operation, and fire control. Such use shall not include irrigation.
- (3) "Aquatic life water use" means the use of water to support natural or artificial propagation and sustenance of fish and other aquatic life.
- (4) "Artificial ground water recharge" means the intentional addition of water to a ground water reservoir by diversion from another source.
- (5) "Beneficial use" means the reasonably efficient use of water without waste for a purpose consistent with the laws, rules and the best interests of the people of the state.
- (6) "Commercial use" means the use of water related to the production, sale or delivery of goods, services or commodities by a public or private entity. These uses include, but are not limited to, construction, operation and maintenance of commercial facilities. Examples of commercial facilities include, but are not limited to, an office, resort, recreational facility, motel, hotel, gas station, kennel, store, medical facility, and veterinary hospital. Examples of water uses in such facilities include, but are not limited to, human consumption, sanitation, food processing, and fire protection. Such uses shall not include the irrigation or landscape maintenance of more than one-half acre.
- (7) "Comment" means a written statement requesting the Director's report of the technical review for a particular permit application or a written statement concerning a particular notice of water use registration for a proposed wetland, stream or riparian area enhancement or storm water management project. The comment may identify elements of the application which, in the opinion of the commenter, would conflict with an existing water right or would impair or be detrimental to the public interest.
- (8) "Commission" means the Water Resources Commission.

- (9) "Contested case" means a hearing before the Department or Commission as defined in ORS 183.310(2) and conducted according to the procedures described in ORS 183.413 - 183.497 and OAR Chapter 690, Division 02.
- (10) "Cranberry use" means all necessary beneficial uses of water for growing, protecting and harvesting cranberries. Examples of these uses include, but are not limited to, irrigation of cranberries or other crops in rotation, chemical application, flooding for harvesting or pest control, and temperature control.
- (11) "Deficiency of rate right" means an additional right allowed from the same source for the same use at the same place of use when an earlier right does not allow a full duty or rate of flow of water.
- (12) "Department" means the Water Resources Department.
- (13) "Director" means the Director of the Department.
- (14) "Domestic water use" means the use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses.
- (15) "Domestic use expanded" means the use of water, in addition to that allowed for domestic use, for watering up to 1/2-acre of lawn or noncommercial garden.
- (16) "Drainage basin," as used in OAR 690-11-041, 690-11-046 and 690-11-049, means a hydrologic unit delineated as a cataloging unit by the US Geological Survey Office of Water Data Coordination on the State Hydrologic Unit map.
- (17) "Fire protection water use" means the use and storage of water for the purpose of extinguishing fires or reducing the potential outbreak of fires.
- (18) "Fish bypass structure," as used in OAR 690-11-014, means any pipe, flume, open channel or other means of conveyance that transports fish that have entered a water diversion structure back to the body of water from which the fish were diverted.
- (19) "Fish screen," as used in OAR 690-11-014, means a screen, bar, rack, trap or other barrier at a water diversion to entrap or provide adequate protection for fish populations, including related improvements necessary to insure its effective operation.
- (20) "Fishway," as used in OAR 690-11-014, means any structure, facility or device used to facilitate upstream or downstream passage of fish through, over or around any man-made or natural barrier to free movement.

(21) "Forestland and rangeland management," as used in Chapter 595, Oregon Laws 1993, means water used for operations conducted on or pertaining to forestlands and rangelands. Such uses may include, but are not limited to, reforestation, road construction and maintenance, harvesting, vegetation management, and disposal of slash. Such use shall not include irrigation.

(22) "Ground water reservoir" means a designated body of standing or moving ground water as defined in ORS 537.515(5).

(23) "Group domestic water use" means the use of water for domestic water use by more than one residence or dwelling unit.

(24) "Human consumption" means the use of water for the purposes of drinking, cooking, and sanitation.

(25) "Industrial use" means the use of water associated with the processing or manufacture of a product. These uses include, but are not limited to, construction, operation and maintenance of an industrial site, facilities and buildings and related uses. Examples of these uses include, but are not limited to, general construction; road construction, non-hydroelectric power production, including down-hole heat exchange and geothermal; agricultural or forest product processing; and fire protection. Such use shall not include irrigation or landscape maintenance of more than one-half acre.

(26) "Irrigation use" means the artificial application of water to crops or plants by controlled means to promote growth or nourish crops or plants. Examples of these uses include, but are not limited to, watering of an agricultural crop, commercial garden, tree farm, orchard, park, golf course, play field or vineyard and alkali abatement.

(27) "Mining water use" means the use of water for extraction, preliminary grading, or processing of minerals or aggregate at a mining site or construction, operation and maintenance of a mining site. These uses include, but are not limited to, general construction, road construction, and dust control. Examples of mining include, but are not limited to, aggregate, hard rock, heap leach and placer mining.

(28) "Municipal corporation" means any county, city, town or district as defined in ORS 198.010 or ORS 198.180(5) that is authorized by law to supply water for usual and ordinary municipal water uses.

(29) "Municipal use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to, domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and

recreation facilities, and street washing. Such water uses shall not include generation of hydroelectric power.

(30) "Nursery operations use" means the use of water for operation of a commercial nursery which may include temperature control, watering of containerized stock, soil preparation, application of chemicals or fertilizers, watering within greenhouses and uses to construct, operate and maintain nursery facilities. The use of water within plant nursery operations constitutes a different use from field irrigation, although that may be a part of nursery use. If used for field irrigation for nursery stock, such use is not restricted to the defined agricultural irrigation season.

(31) "Objection" means a written statement identifying a particular water use application or water use registration and identifying defects in the Director's report of the technical review, or identifying the elements of the application which, in the opinion of the objector, would conflict with an existing water right or would impair or be detrimental to the public interest. Objections shall meet the requirements of OAR 690-11-170(1).

(32) "Off-channel" means outside a natural waterway of perceptible extent which, during average water years, seasonally or continuously contains moving water that flows off the property owned by the applicant and has a definite bed and banks which serve to confine the water. "Off-channel" may include the collection of storm water run-off, snow melt or seepage which, during average water years, does not flow through a defined channel and does not flow off the property owned by the applicant.

[(33) *"Placer mining," as used in ORS 390.835, means the process of extracting minerals from a placer utilizing mechanized or hydraulic equipment, except a motorized surface dredge with a suction hose intake four inches or less in diameter.*]

[(34)] (33) "Planned" means a determination has been made for a specific course of action either by a legislative, administrative or budgetary action of a public body, or by engineering, design work, or other investment toward approved construction by both the public and private sector.

[(35)] (34) "Planned uses" means the use or uses of water or land which has/have been planned as defined in this section. Such uses include, but are not limited to, the uses approved in the policies, provisions, and maps contained in acknowledged city and county comprehensive plans and land use regulations.

[(36)] (35) "Pollution abatement or pollution prevention water use" means the use of water to dilute, transport or prevent pollutants.

[(37)] (36) "Power development water use" means the use of the flow of water to develop electrical or mechanical power. Examples of these uses include, but are

not limited to, the use of water for the operation of a hydraulic ram or water wheel and hydroelectric power production.

[(38)] (37) "Primary right" means the right to store water in a reservoir or the water right designated by the commission as the principle water supply for the authorized use, or if no designation has been made, the first in time or initial appropriation.

[(39)] (38) "Proposed certificate" means a draft version of a water right certificate describing the elements and extent of the water right developed under the terms of a permit or transfer approval order, as determined by field investigation.

[(40)] (39) "Protest" means a written statement filed by an objector identifying errors of law or fact in the Director's denial of an objection. Protests shall comply with the requirements of OAR 690-11-175(5).

[(41)] (40) "Public corporation" means a corporation which operates subject to control by a local government entity or officers of a local government and which, at least in part, is organized to serve a public purpose of, and receives public funds or other support having monetary value, from such government.

[(42)] (41) "Quasi-municipal water use" means the delivery and use of water through the water service system of a corporation other than a public corporation created for the purpose of operating a water supply system, for those uses usual and ordinary to municipal water use. A quasi-municipal water right shall not be granted the statutory preferences given to a municipality under ORS 537.190(2), 537.230(1), 537.352, 537.410(2), 540.510(3), 540.610(2), 540.610(3), or those preferences over minimum streamflows designated in a basin program.

[(43)] (42) "Rate and duty of water for irrigation" means the maximum flow of water in cubic feet per second or gallons per minute (instantaneous rate) and the total volume of water in acre-feet per acre per year that may be diverted for irrigation.

[(44)] (43) "Recharge permit" means a permit for the appropriation of water for the purpose of artificial ground water recharge.

[(45)] (44) "Recreation use" means the use of water for play, relaxation or amusement. Examples of these uses include, but are not limited to, boating, fishing, wading, swimming, and scenic values.

[(46)] (45) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex, the influence of such surface or subsurface water. A riparian area may be located

adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, or ephemeral, intermittent or perennial stream.

[(47)] (46) "Secondary ground water permit" means a permit for the appropriation of ground water which was stored through the exercise of a recharge permit or certificate.

[(48)] (47) "Stockwater use" means the use of water for consumption by domesticated animals and wild animals held in captivity as pets or for profit.

[(49)] (48) "Storage" means the retention or impoundment of surface or groundwater by artificial means for public or private uses and benefits.

[(50)] (49) "Stored recharge water" means ground water which results from artificial ground water recharge.

[(51)] (50) "Storage account" means a net volume of artificially recharged ground water which is calculated for a single recharge activity from a formula specified in a single recharge permit which records additions to a ground water reservoir by artificial recharge and depletion from a ground water reservoir by pumping and natural losses.

[(52)] (51) "Storm water management water use" means the use or storage of water in any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement, flood control or property protection. It may also include, but is not limited to, existing features such as wetlands, water quality swales, and ponds which are maintained as stormwater quality facilities.

[(53)] (52) "Stream or riparian area enhancement water use" means the use of water to restore or enhance a stream or riparian area.

[(54)] (53) "Supplemental water right or supplemental water use permit" means an additional appropriation of water to make up any deficiency in supply from an existing water right. A supplemental water right is used in conjunction with a primary water right.

[(55)] (54) "Surplus waters" means all waters in excess of those needed to satisfy current existing rights and minimum streamflows established by the Commission.

[(56)] (55) "Temperature control" means the use of water to protect a growing crop from damage from extreme temperatures.

[(57)] (56) "Transfer" means a change of use or place of use or point of diversion of a water right.

[(58)] (57) "Wastewater" means water that has been diverted under an authorized water right after it is beyond the control of the owner of that right but has not yet returned to the channel of a natural stream. In an irrigation district, the wastewater of an individual user is not subject to appropriation until it leaves the boundaries of the district. Wastewater abandoned to the channel of a natural stream becomes a part of that stream and is subject to appropriation.

[(59)] (58) "Water availability analysis" means the investigation of stream flow or groundwater measurement records, watermaster distribution records, flow requirements of existing water rights, stream flow modeling in ungauged basins, minimum perennial streamflows, or scenic waterway flow requirements to determine if water is available to support the proposed water use.

[(60)] (59) "Water right subject to a transfer" means a right established by a court decree or evidenced by a valid water right certificate, or a right for which proof of beneficial use of water under a water right permit or transfer has been submitted to and approved by the Director but for which a certificate has not yet been issued.

[(61)] (60) "Wetland" means an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

[(62)] (61) "Wetland enhancement water use" means the use of water to restore, create, enhance or maintain wetland resources.

[(63)] (62) "Wildlife water use" means the use of water by or for sustaining wildlife species and their habitat.

{adopted 6-11-87; amended: 6-28-88; 8-3-90; 6-5-92; 10-1-93; 4-8-94; 6-3-94}