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I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on 08/18/2016 by the
Water Resources Department 690

Agency and Division Administrative Rules Chapter Number
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To become effective Upon filing. Rulemaking Notice was published in the June 2016 Oregon Bulletin.

RULE CAPTION

Updates to Hood Basin Program and Extension of Reservation

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:

690-504-0005

AMEND:

690-504-0000, 690-504-0020, 690-504-0100

REPEAL:

RENUMBER:

AMEND AND RENUMBER:

Statutory Authority:

ORS 536 & 537

Other Authority:

Statutes Implemented:

ORS 536.220, 536.300, 536.310, 537.249, 537.356, 537.358, & 538.200

RULE SUMMARY

A reservation of water for future economic development sets aside a quantity of water for multipurpose storage to meet future needs. The rules establishing the Hood Basin reservations are set to expire on October 17, 2016, unless extended in rule by the Water Resources Commission. This revised rule would extend reservations of water for future economic development for the West Fork Hood River Subbasin, East Fork Hood River Subbasin, Neal Creek Subbasin, Mosier Creek Subbasin, Eightmile Creek Subbasin and Fifteenmile Creek Subbasin of the Hood Basin for an additional 20 years, and would change reporting requirements that apply to the Oregon Department of Agriculture and Oregon Water Resources Department. In addition, the rules include expansion of classified uses to clarify that the allowable uses include agricultural, commercial, and flow augmentation for instream use; pursuant to ORS 538.200, addition of withdrawal of rivers that form waterfalls; and to address inconsistencies in terminology.

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**OREGON WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 504
HOOD BASIN PROGRAM**

NOTE: The Hood Basin is delineated on agency [Map No. 4.6, dated January 1, 1975.](#)

**690-504-0000
Classifications**

(1) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Hood Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole, will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, flow augmentation, commercial, agriculture, power development, industrial, mining, recreation, wildlife, fish life, pollution abatement use, and the waters of the Hood Basin are hereby so classified with the following exceptions:

(a) The maximum economic development of this state, and the attainment of the highest and best use of the waters of Dog River above its point of diversion at Water Resources Department -- U.S. Geological Survey Gage 14113400, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for municipal use, and the waters of Dog River above that point are hereby so classified;

(b) The maximum economic development of this state, and the attainment of the highest and best use of the waters of the natural lakes of the Hood Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole, will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7-1/2 theoretical horsepower, recreation, wildlife, and fish life uses and the waters of natural lakes of the basin are hereby so classified.

(2) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or work are further declared to be prejudicial to the public interest which do not give cognizance to the multiple-purpose concept.

(3) Pursuant to ORS 538.200, the following streams forming waterfalls near the Columbia River Highway and flowing directly into the Columbia River shall not be diverted or interrupted for any purposes, except as provided in ORS 538.210:

(a) Summit Creek – Forming Camp Benson Falls;

(b) Wonder Creek also known as Spring Creek – Forming Lancaster Falls;

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- (c) Warren Creek;
- (d) Phelps Creek;
- (e) Perham Creek;
- (f) Lindsey Creek – Forming Lindsey Falls;
- (g) Herman Creek;
- (h) Harphan Creek;
- (i) Grays Creek;
- (j) Gorton Creek – Forming Gorton Creek Falls;
- (k) Eagle Creek;
- (l) Cabin Creek;
- (m) Ruckles Creek, also known as Deadman’s Creek;
- (n) Starvation Creek – Forming Starvation Falls;
- (o) Viento Creek.

Stat. Auth.: ORS 536 & ORS 537

Stats. Implemented: ORS 538.200

Hist.: WRB 34, f. 4-7-66; WRD 3-1980, f. 1-23-80; WRD 1-1981, f. 4-20-81; WRD 1-1985, f. & cert. ef. 3-28-85; WRD 4-1988, f. 5-17-88, cert. ef. 5-13-88; Administrative Renumbering 1-1993, Renumbered from 690-080-0040

690-504-0005

Definitions

(1) “Indian Tribe” as defined by ORS 182.162, which defines a tribe as a federal recognized Indian tribe in Oregon.

(2) “Consultation”, for the purpose of this rule “consultation” means a dialogue for the purpose of obtaining information or advice.

Stat. Auth.: ORS 536 & ORS 537

Stats. Implemented:

Hist.:

690-504-0020

Water Quality

Rights to use of water for industrial or mining purposes shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

Stat. Auth.: ORS 536 & ORS 537

Stats. Implemented:

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Hist.: WRB 34, f. 4-7-66; WRD 3-1980, f. 1-23-80; WRD 1-1981, f. 4-20-81; WRD 1-1985, f. & cert. ef. 3-28-85; WRD 4-1988, f. 5-17-88, cert. ef. 5-13-88; Administrative Renumbering 1-1993, Renumbered from 690-080-0040

690-504-0100

Application Process to Store Reserved Water

(1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 to ensure sufficient surface water will be available in the future to meet expected needs. Economic development includes, but is not limited to, the production of goods and services and management of natural resources which contribute economic benefits through both instream and out-of-stream uses of water.

(2) "Multipurpose reservoir," as used in OAR 690-504-0100 through 0160, means a reservoir storing water to serve multiple potential beneficial uses such as, but not limited to irrigation, commercial, agriculture, power development, municipal, recreation, and flow augmentation for instream purposes.

(3) Reservations of water for future economic development in OAR 690-504-0110 through 0160 reserve surface water for future storage in multipurpose reservoirs. The storage of up to 2,000 acre-feet of water for livestock or domestic purposes authorized under water rights with priority dates after November 6, 1992, shall be exempt from regulation for storage of water reserved under OAR 690-504-0110 through 0160.

(4) Permits to store reserved water shall receive the priority date of the reservation. The priority date for reservations under OAR 690-504-0110 through 0160 shall be November 6, 1992.

(5) In addition to the requirements of ORS Chapter 537, OAR Chapter 690, Division 310, and any other applicable rules, an application for a permit to store reserved water shall include:

- (a) An assessment of the effect of the proposed reservoir on fish and wildlife developed after consultation with the Oregon Department of Fish and Wildlife;
- (b) An assessment of the effect of the proposed reservoir on water quality developed after consultation with the Oregon Department of Environmental Quality;
- (c) Documentation of consultation with any affected Indian Tribe(s), including the Confederated Tribes of Warm Springs Reservation.
- (d) An analysis of water supply alternatives to the proposed reservoir, such as off-stream storage, water right transfers and implementation of conservation measures; and
- (e) An analysis summarizing and describing how the proposed project will enhance instream values, including but not limited to instream flows.

(6) For the purposes of review of water right permit applications to store reserved water under OAR Chapter 690, Division 310, the reserved quantities of water listed in OAR 690-504-0110 through 0160 are available for appropriation. However, the determination that water is available

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under OAR 690-504-0110 through 0160 shall not substitute for consideration during the public interest review of site-specific information as required under OAR Chapter 690, Division 310 and any other applicable statutes or rules. Because the finding that water is available in OAR 690-504-0110 through 0160 is a water availability determination for a sub-basin, analysis of water availability at the specific location shall be conducted at the time of permit application review.

(7) In addition to any other findings required for issuance of a reservoir permit under OAR 690, Division 310 and applicable rules, and prior to issuance of a permit for a proposed project storing water reserved under 690-504-0110 through 0160, the Department shall also find:

- (a) The proposed reservoir is consistent with the purpose of the reservation following consultation with the Department of Agriculture and other state agencies;
- (b) The proposed reservoir will enhance instream values; including but not limited to instream flows; and
- (c) Whether minimum bypass flow are required.

(8) The Department shall determine, and impose as a condition, an appropriate storage season, and shall include other conditions to ensure no injury to senior water rights and to protect instream values.

(9) Progress Reports: Until the Department has issued permits for multipurpose reservoirs for the full quantity of reserved water under OAR 690-504-0110 through 0160, the Department shall biennially report to the Water Resources Commission on the amount of water available under the reservation, and the quantity allocated under the reservation. The Department or Commission may require periodic reports from the Oregon Department of Agriculture on continued interest in the reservation, efforts undertaken to develop the reservation, and any challenges to developing the reservation.

(10) Effective date of rules:

- (a) OAR 690-504-0110 through 0160 shall be effective until October 17, 2036, unless the effective date has been extended by further rulemaking of the Water Resources Commission.
- (b) The expiration of these reservation rules shall not affect pending applications that have been received and deemed complete and not defective by the Water Resources Department pursuant to ORS 537.150(2), prior to the expiration date of the rules.

Stat. Auth.: ORS 536 & ORS 537

Stats. Implemented: ORS 536.310, ORS 537.249, ORS 537.356 & ORS 537.358

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

690-504-0110

West Fork Hood River Subbasin Reservation

Nine thousand (9,000) acre-feet of unappropriated water of the Lake Branch of the West Fork Hood River or its tributaries upstream of the confluence with the West Fork Hood River are

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reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537

Stats. Implemented: ORS 537.249 & ORS 537.356

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

690-504-0120

East Fork Hood River Subbasin Reservation

Fifty Thousand (50,000) acre-feet of unappropriated water of the East Fork Hood River or its tributaries upstream of the confluence of the Dog River with the East Fork Hood River are reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537

Stats. Implemented: ORS 537.249 & ORS 537.356

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

690-504-0130

Neal Creek Subbasin Reservation

Five thousand (5,000) acre-feet of unappropriated water of Neal Creek or its tributaries are reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537

Stats. Implemented: ORS 537.249 & ORS 537.356

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

690-504-0140

Mosier Creek Subbasin Reservation

Six thousand four hundred (6,400) acre-feet of unappropriated water of Mosier Creek or its tributaries are reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537

Stats. Implemented: ORS 537.249 & ORS 537.356

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

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690-504-0150

Eightmile Creek Subbasin Reservation

Four thousand (4,000) acre-feet of unappropriated water of Eightmile Creek or its tributaries upstream of the confluence of Pine Hollow with Eightmile Creek are reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537

Stats. Implemented: ORS 537.249 & ORS 537.356

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

690-504-0160

Fifteenmile Creek Subbasin Reservation

Unappropriated water in the Fifteenmile Creek subbasin is reserved as follows:

(1) Five thousand (5,000) acre-feet of unappropriated water of Fifteenmile Creek or its tributaries upstream of the City of Dufur water supply reservoir are reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

(2) Three thousand five hundred (3,500) acre-feet of unappropriated water of Larch Creek or its tributaries are reserved for storage in multipurpose reservoirs. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537

Stats. Implemented: ORS 537.249 & ORS 537.356

Hist.: WRD 8-1996, f. & cert. ef. 11-14-96

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