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

BARBARA L. BROWN
SECRETARY OF STATE

I HEREBY CERTIFY that the attached copy is a true, full and correct copy of PERMANENT rule(s) adopted on December 7, 1990
(Date)

by the Water Resources Commission
(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: September 1, 1990

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: OAR 690-512-040 Malheur Lake Basin Program Provision
(New Total Rules)

Amended: _____
(Existing Rules)

Repealed: _____
(Total Rules Only)

is Administrative Rules of the Water Resources Department Resource Management Division
(Department) (Division)

DATED this 14th day of December, 19 90

By: William H. Young
(Authorized Signer)

Title: Director

Statutory Authority: ORS 536.300 and 536.340 or

Chapter(s) _____, Oregon Laws 19 _____ or

**Water Resources Department
Administrative Rules
Chapter 690
Division 512
Malheur Lake Basin Program Provision**

690-512-040 Water Availability

(1) Except as provided in section (3) of this rule, the Department shall not accept an application for permit, or issue a permit, for any use of surface water, or of groundwater the use of which has the potential to substantially interfere with surface water, in the Malheur Lake Basin unless the applicant shows, by a preponderance of evidence, that unappropriated water is available to supply the proposed use at the times and in the amounts requested. The evidence provided shall be prepared by a qualified hydrologist or other water resources specialist and shall include:

- (a) Streamflow measurements or gage records from the source or, for use of groundwater, the stream in hydraulic connection with the source; or
- (b) An estimate of water availability from the source or, for use of groundwater, the stream in hydraulic connection with the source which includes correlations with streamflow measurements or gage records on other, similar streams and considers current demands for water affecting the streamflows.

(2) The criteria used in determining if the use of groundwater has the potential to substantially interfere with surface water shall be those established in OAR Chapter 690, Division 9.

(3) This rule shall not apply to issuance of:

- (a) Instream water rights,
- (b) Permits for storage of water between March 1 and May 31 if the application is not required to be referred to the Commission under OAR 690-11-080 (2)(a)(C), or
- (c) Permits for use of water legally stored.