



Oregon

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MEMORANDUM

TO: Water Resources Commission

FROM: Dwight French, Water Rights Services Administrator *DWF*

SUBJECT: Agenda Item E, September 5, 2019
Water Resources Commission Meeting

Preview of Upcoming Rulemaking: Division 522 – Deschutes Basin Water Management

I. Introduction

During this agenda item, staff will brief the Commission on the upcoming Oregon Administrative Rules (OAR) Chapter 690, Division 522 rulemaking for Deschutes Basin Water Management.

II. Background

On June 4, 2010, the Commission adopted the Deschutes Basin Water Management Rules (OAR) Chapter 690, Division 522, relating to the Deschutes Groundwater Mitigation Program. The Division 522 rules operate in conjunction with the Deschutes Groundwater Mitigation Rules in Division 505 and the Deschutes Basin Mitigation Bank and Mitigation Credit Rules in Division 521.

The existing rules specify how the Department counts new, reduced, cancelled and partially cancelled groundwater permits under the allocation cap; allows unused permanent mitigation credits to be reassigned; and identifies how municipal and quasi-municipal permit holders can provide mitigation under incremental development plans. The rules also allow a mitigation project to provide direct mitigation for a specific groundwater application.

As currently implemented, a mitigation project is tied to a specific groundwater application and cannot be used or re-assigned to satisfy the mitigation obligation of any other groundwater application or permit; whereas mitigation credits can be used to satisfy the mitigation obligations for multiple groundwater applications or permits. Mitigation credits can then be re-assigned and designated to satisfy other mitigation obligations. The different types of projects that have created mitigation are permanent instream transfers and temporary instream leases.

III. Discussion

The purpose of the proposed rulemaking is to clarify that the Department will change mitigation water developed under a mitigation project into mitigation credits, thereby providing the ability for those mitigation credits to be used to satisfy other mitigation obligations.

There are currently nine approved mitigation water projects that are located within five different zones within the Deschutes Basin Study Area.

This proposed change has the potential to make more mitigation credits available in zones that are currently lacking in availability, where mitigation project water has been previously obligated but unused and unable to be assigned to other permits, due to current implementation of the program. The rule change will also make it clear that mitigation project water going forward will be automatically assigned mitigation credits.

IV. Conclusion

The Department is convening a Rules Advisory Committee to advise on the rule development and anticipates having these rules before the Commission in late 2019 or early 2020.

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