



PERMANENT ADMINISTRATIVE ORDER

WRD 2-2020

CHAPTER 690
WATER RESOURCES DEPARTMENT

FILED

05/22/2020 8:50 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Extending Reservations of Water for Economic Development: Pine Creek, Eagle Creek, and Powder River Subbasins

EFFECTIVE DATE: 05/22/2020

AGENCY APPROVED DATE: 05/01/2020

CONTACT: Racquel Rancier
503-986-0828
racquel.r.rancier@oregon.gov

725 Summer Street NE
Salem, OR 97301

Filed By:
Racquel Rancier
Rules Coordinator

RULES:

690-509-0100, 690-509-0140, 690-509-0150, 690-509-0160

AMEND: 690-509-0100

RULE TITLE: Reservation Applications and Process

NOTICE FILED DATE: 01/28/2020

RULE SUMMARY: This rule explains reservations of water for economic development, as well as identifies procedures for applying to use reserved water, reporting on reservation progress, and sunset dates on rules reserving water.

RULE TEXT:

- (1) Reservations of water for economic development are established pursuant to ORS 537.249 and 537.356 to ensure sufficient 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 690-509-0110 through 0160, means a reservoir storing water to serve multiple potential beneficial uses of stored water such as, but not limited to, irrigation, power development, municipal, recreation, pollution abatement, and flow augmentation for instream purposes.
- (3) Reservations of water for future economic development in OAR 690-509-0110 through 0160 allocate and reserve surface water for storage for the period of the reservation.
- (4) Permits to store reserved water shall receive the priority date of the reservation.
- (5) In addition to the requirements of ORS Chapter 537 and OAR Chapter 690, Division 310, an application for a permit to store water reserved under 690-509-0110 through 0160 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) An analysis of water supply alternatives to the proposed reservoir, such as off-stream storage, water right transfers and implementation of conservation measures; and

- (d) 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, Divisions 310, the reserved quantities of water listed in OAR 690-509-0110 through 0160 are available for appropriation. However, the determination that water is available under OAR 690-509-0110 through 0160 shall not substitute for consideration during the public interest review of site-specific information as required under ORS Chapter 537, OAR Chapter 690 or any other applicable statutes or rules. Because the finding that water is available in OAR 690-509-0110 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 ORS Chapter 537 or applicable rules, and prior to issuance for a proposed project storing water reserved under 690-509-0110 through 0160, the Department shall also find:
- (a) The proposed reservoir is consistent with the purpose and intent of the reservation following consultation with the Department of Agriculture;
- (b) The proposed reservoir will enhance instream values, including but not limited to instream flows; and
- (c) Whether minimum bypass flows are required.
- (8) The Department shall determine, and impose as a condition, an appropriate storage season, and shall include other conditions to insure no injury to senior water rights and to protect instream values.
- (9) Progress Reports: Until the Department has received applications for reservoir permits for the full quantity of reserved water under OAR 690-509-0110 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 690-509-0110 through 0130 shall be effective until March 8, 2036 unless the effective date has been extended by further rulemaking of the Water Resources Commission.
- (b) OAR 690-509-0140 through 0160 shall be effective until May 26, 2040, unless the effective date has been extended by further rulemaking of the Water Resources Commission.
- (c) 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.

STATUTORY/OTHER AUTHORITY: ORS 536.027, ORS 537.249

STATUTES/OTHER IMPLEMENTED: ORS 536.300, ORS 536.310, ORS 537.249, ORS 537.356, ORS 537.358

AMEND: 690-509-0140

RULE TITLE: Pine Creek Subbasin Reservation

NOTICE FILED DATE: 01/28/2020

RULE SUMMARY: Reserves water and establishes priority date of the reserved water in the Pine Creek subbasin.

RULE TEXT:

Ten thousand (10,000) acre-feet of unappropriated water of Pine Creek and tributaries above Long Branch, tributary to the Snake River, are reserved for multipurpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992.

STATUTORY/OTHER AUTHORITY: ORS 536.027, ORS 537.249

STATUTES/OTHER IMPLEMENTED: ORS 537.358, 536.300, ORS 536.310, ORS 537.249, ORS 537.356

AMEND: 690-509-0150

RULE TITLE: Eagle Creek Subbasin Reservation

NOTICE FILED DATE: 01/28/2020

RULE SUMMARY: Reserves water and establishes priority date of the reserved water in the Eagle Creek subbasin.

RULE TEXT:

Four thousand three hundred (4,300) acre feet of unappropriated water of Eagle Creek and tributaries upstream of gage 13288200 at Skull Creek are reserved for multipurpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992.

STATUTORY/OTHER AUTHORITY: ORS 536.027, ORS 537.249

STATUTES/OTHER IMPLEMENTED: ORS 537.358, ORS 536.300, ORS 536.310, ORS 537.249, ORS 537.356

AMEND: 690-509-0160

RULE TITLE: Powder River Subbasin Reservation

NOTICE FILED DATE: 01/28/2020

RULE SUMMARY: Reserves water and establishes priority date of the reserved water in the Powder River subbasin.

RULE TEXT:

Unappropriated water is reserved for multipurpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992. The quantity and source of reserved water is as follows:

- (1) Three thousand nine hundred and ninety (3,990) acre feet of Goose Creek and tributaries upstream of the mouth, tributary to the Powder River east of Keating.
- (2) Twenty seven thousand (27,000) acre feet of the Powder River and tributaries upstream of Thief Valley Dam and below the confluence of Blue Canyon Creek
- (3) Two thousand nine hundred (2,900) acre feet of water of the Powder River and tributaries below the confluence of Blue Canyon Creek, including Blue Canyon Creek.

STATUTORY/OTHER AUTHORITY: ORS 536.027, ORS 537.249

STATUTES/OTHER IMPLEMENTED: ORS 536.358, ORS 536.300, ORS 536.310, ORS 537.249, ORS 537.356