



March 20, 2014

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Email: joelle.gore@noaa.gov

Re: NOAA/EPA Proposed Determination to Disapprove Oregon's Coastal Nonpoint Program.
Sent VIA email

Dear Ms. Gore:

Thank you for the opportunity to comment on the Notice of Intent to Find that Oregon has Failed to Submit an Approvable Coastal Nonpoint Program. 78 Fed. Reg. 77104-77105 (December 20, 2014). We support the finding that Oregon has Failed to Submit an Approvable Coastal Nonpoint Program. Our comments are limited to highlighting the inadequacy of Oregon Water Resources Department's (OWRD's) Water Use Basin Program as support for meeting the 6217(g) agricultural management measures and conditions placed on Oregon's Coastal Nonpoint Program.

The NOAA/EPA Proposed Finding states, on page 13, that that OWRD's "Water Use Basin Program . . . supports the irrigation measure by establishing sub-basin classifications and limits on water use to ensure water quality and habitat for sensitive and endangered species is not impaired." This statement is not supported by the contents of any of the coastal Basin Programs. (Attached for reference). To the contrary, Oregon's Basin Programs do not ensure, either legally or practically, that water quality and habitat for sensitive and endangered species will not be impaired. We urge EPA/NOAA to take a close look at the deficiencies of the Basin Programs before attributing any water quality or fish habitat protection value to them as a measure in support of Oregon's agricultural conditions.

Although the Basin Program provides for the establishment of “minimum perennial streamflows”—which are administrative rules that purport to establish the “flow necessary to support aquatic life or minimize pollution,” OAR 690-076-0010(7)—Oregon’s rules provide no assurance that water use will be adequately limited to maintain those minimum flows. First, minimum perennial streamflow (MPS) rules have no impact upon water use rights having priority dates earlier than that of the MPS. OAR 690-076-0015. This means that even if stream flows are below the applicable minimum perennial flow (or associated instream rights), water users may continue to take additional streamflow so long as their water rights have an earlier priority date. There are many, many water rights in the coastal basins that predate minimum streamflow rules. Second, minimum perennial flows are given a lower preference than other uses, including livestock consumption. See OAR 690-076-0015. Hence, even if established perennial minimum streamflows were adequate to protect designated and fish habitat from nonpoint source pollution from irrigation and other sources—they are not—the Basin Programs clearly do not “ensure” that such flows will be maintained or that fish habitat and designated uses will not be impaired.

Second, the Basin Programs also fail in practice to protect minimum perennial streamflows and instream rights held by OWRD for the protection of aquatic wildlife and water quality. Many rivers throughout Oregon frequently flow at levels below the established minimum flows. For example, the Chetco River in the South Coast Basin at its mouth to the Pacific Ocean frequently flows at levels well below instream flow requirements (including those for the protection of anadromous fish) during the Summer and Fall months, notwithstanding concurrent water appropriations for irrigation and other water uses. See Oregon Water Resources Department’s Water Availability Reporting System (WARS), Watershed ID # 70908 (Chetco River). Similarly, flows for other Oregon coastal rivers, such the Rogue River, frequently fail to meet minimum perennial streamflows and instream rights for protection of aquatic life and minimizing pollution. See, e.g., WARS, Watershed ID # 266. It is clear that the Basin Programs fail to “ensure that water quality and habitat for sensitive and endangered species is not impaired,” because even a cursory investigation of annual flows in Oregon’s coastal rivers shows that the Basin Programs fail to maintain the minimum flows Oregon has identified as necessary for the protection of aquatic life and mitigating nonpoint source pollution.

The inadequate streamflow protections afforded by Oregon’s Basin Program renders the deficiencies in Oregon’s agricultural measures for controlling nonpoint pollution all the more serious. Accordingly, EPA should disapprove Oregon’s agricultural measures, alongside its disapproval of Oregon’s conditions and measures for forestry practices, sewage disposal systems, and new development.

Beyond the establishment of the minimum perennial streamflows, which are not protected by the Basin Plans, the Basin Plans do not, as claimed in the NOAA/EPA Proposed Finding on page 13, “establish[] sub-basin classifications and limits on water use to ensure water quality and habitat for sensitive and endangered species is not impaired.”

For a contemporary view on the Basin Plans, please see OWRD’s “Place-Based Integrated Water Resources Planning, Initial Observations from the State of Oregon” (March 10,

2014).¹ OWRD’s report describes the limited scope of the Basin Plans (classifying water for various uses) and the fact that they are very dated, stating for example that:

“[b]y the early 1980s, work was proceeding on only one basin program. Significant reductions persisted and the pool of funds to conduct comprehensive basin program updates completely dried up by the early 1990s.”

(P. 7). OWRD’s report also acknowledges that the Basin Plans predate efforts under the Clean Water Act and Endangered Species Act:

Since adoption of the basin plans, many other plans, rules, and regulations—from state and federal agencies—have also been created. Some examples include Oregon’s efforts under the Endangered Species Act, the Clean Water Act, Safe Drinking Water Act, and Oregon Forest Practices Act. It is necessary to find a way to help communities take into account and reconcile all of the requirements related to water.

Id. The Basin Plans are simply not capable of ensuring protection of water quality or of habitat for imperiled fish.

In sum, any claim that OWRD’s Basin Plan Program meaningfully contributes to “ensur[ing] water quality and habitat for sensitive and endangered species is not impaired” is inaccurate and should be rejected by EPA/NOAA. The lack of protection offered by Oregon’s Water Use Basin Programs for preservation of aquatic life and designated uses should be acknowledged in the agencies’ final determination. The practical failure of the Basin Plans to maintain minimum streamflows make the detrimental impacts of nonpoint source pollution to aquatic life and water quality all the more serious. Inadequacies in Oregon’s agriculture measures are not adequately mitigated by the Basin Programs. In light of the deficiencies in Oregon’s agricultural measures identified by EPA/NOAA and other commenters, and the inadequacy of the Oregon’s measures for forestry practices, new development and sewage disposal, EPA/NOAA should disapprove Oregon’s Coastal Nonpoint Program.

Thank you for considering these comments.

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[REDACTED]

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¹ Available here:

http://www.oregon.gov/owrd/LAW/docs/IWRS/2014_03_10_IWRS_Place_Based_Discussion_Paper_Final.pdf.

Attachments: Oregon's Water Use Basin Programs (OAR Chapter 690) for the Rogue (Division 515), Umpqua (Division 516), South Coast (Division 517), Mid-Coast (Division 518), and North Coast (Division 501) basins.

DIVISION 515

ROGUE BASIN PROGRAM

690-515-0000

Upper Rogue Basin

(1) Classifications:

(a) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the upper Rogue River Basin are classified with the following exceptions:

(A) Those waters on which development is further restricted by ORS 542.210;

(B) In accordance with ORS 538.220, the waters of Barr Creek (beginning in Section 1, T32S, R3E, W.M. and in Section 6 and Section 7, T32s, R4E, W.M. running thence in a general southwesterly direction through T32S, R3E, W.M. to a junction with the Rogue River in Section 32, T32S, R3EW.M.) and its tributaries are withdrawn from further appropriation for any purpose except domestic use and fish life as determined by the Oregon Department of Fish and Wildlife;

(C) In accordance with ORS 536.220, the waters of Mill Creek and its tributaries (beginning in Section 22, T31S, R4E, W.M., running thence southwesterly through T31S, R3E, W.M. and T32S, R3E, W.M., to a junction with the Rogue River in Section 32, T32S, R3E, W.M.) are withdrawn from further appropriation for any purpose except domestic use and fish life as determined by the Oregon Department of Fish and Wildlife (ODFW), and the development of hydroelectric power not to exceed one megawatt if: 1) the hydroelectric project is located on Mill Creek at a point at least two miles above the confluence of Mill Creek and the Rogue River, 2) all water appropriated from the stream is returned to the stream at a point at least one-half mile above the confluence of Mill Creek and the Rogue River, and 3) the hydroelectric project was constructed and operated in compliance with ODFW concerning fish conservation, including streamflow requirements based upon biological criteria;

(D) In accordance with ORS 538.430, the waters of Big Butte Creek, including its tributaries and springs at the head which form the creek, are withdrawn from further appropriation for any purpose except municipal use by the City of Medford, with the exceptions for Eagle Point Irrigation District as provided in ORS 538.430;

(E) In accordance with ORS 538.270, the waters of the main channel of the Rogue River (excluding tributaries) from its intersection with the south line of Section 27, T33S, R1E, W.M.

to its confluence with the Pacific Ocean, are withdrawn from appropriation for any purpose except domestic, stock, irrigation, municipal, fish, wildlife, recreation, and road maintenance;

(F) The waters of Indian Creek, Evergreen Creek, Reese Creek, Trail Creek and Elk Creek and tributaries are classified for domestic, livestock and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for purposes specified in subsection (a) of this section;

(G) To protect, maintain and perpetuate the resident fish habitat, the recreational value, and the cultural resources of the Upper Rogue Basin, the waters of the following streams and natural lakes shall not be diverted, interrupted or appropriated for power development purposes:

(i) All natural lakes in the Upper Rogue Basin;

(ii) The Rogue River from the origin near the intersection with the south line of Section 4, Township 29 South, Range 5 East, downstream to USGS stream gage 14328000 (Township 32 South, Range 3 East, Section 19) excluding existing projects;

(iii) Union Creek and tributaries;

(iv) Abbott Creek and tributaries.

(b) 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 applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Minimum Perennial Streamflows:

(a) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water shall be granted for the waters of the Rogue River or tributaries above river mile 164 when the combined flow measured at stream gages 14330000, Rogue River below Prospect (Township 33 South, Range 3 East, Section 6), and 14334700, South Fork Rogue River, South of Prospect (Township 33 South, Range 3 East, Section 7) is below 835 cubic feet per second except that this limitations shall not apply to:

(A) Water legally stored or legally released from storage;

(B) Domestic and livestock uses. Domestic use does not include irrigation of lawns and gardens;

(C) Appropriation of water for power development at or near gage 14330000 provided that alternative provisions for flow measurements are included in any permit or license issued for the project.

(b)(A) To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be granted for the waters of Reese Creek and tributaries when flows are below the specified levels in Table 1, Section B. This limitation shall not apply to:

- (i) Domestic and livestock uses. Domestic use does not include irrigation of lawns and gardens;
- (ii) Water legally stored or released from storage, subject to section (3) of this rule.

(B) Attainment of the specified flow levels during some portions of the year will require development of water storage or implementation of other measures to augment flows.

(3) Storage:

(a) Storage projects consistent with the purposes of minimum perennial streamflows shall be encouraged;

(b) Potential reservoir sites should be identified in the comprehensive land-use planning process for possible future development or until alternative methods of meeting water needs have been developed. Immediate consideration should be given to the following site: Elk Creek (SW 1/4 SW 1/4, Section 20, Township 33 South, Range 1 East).

(4) Water Quality: Rights to use of water for industrial, power development or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not significantly interfere with recreation, fish life or other beneficial uses of water.

NOTE: The Upper Rogue Basin includes all of the drainage area of the Rogue River and its tributaries above river mile 133 at the south line of Section 31, Township 35 South, Range 1 West, Willamette Meridian.

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

690-515-0010

Little Butte Creek Basin

(1) Classifications:

(a) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the Little Butte Creek Basin are classified for domestic, livestock, irrigation, agricultural use, power development, recreation, wildlife, and fish life purposes, except for water administratively withdrawn from appropriation;

(b) In accordance with the Order of the State Engineer dated January 22, 1959 (Special Order Vol 9, Page 489), the waters of Antelope Creek and its tributaries are withdrawn from further appropriation except for storage of water from November 1 through March 30 and the appropriation of stored water.

(c) Structures or works of 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 applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Minimum Perennial Streamflows: For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water except for domestic or livestock use shall be granted, except that this limitation shall not apply to water legally stored or legally released from storage subject to the provisions of Section D for the waters of the streams listed in Table 2 when flows are below the specified levels. Domestic use does not include irrigation of lawns and gardens.

(3) Storage:

(a) Potential reservoir sites should be identified in the comprehensive land-use planning process for possible future development or until alternative methods of meeting water needs have been developed. Immediate consideration should be given to the following sites:

(A) Lake Creek (E 1/2, Section 30, Township 36 South, Range 2 East);

(B) South Fork Little Butte Creek (SE 1/4 SE 1/4, Section 29, Township 36 South, Range 2 East).

(b) Storage projects consistent with the purposes of minimum perennial streamflows shall be encouraged.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

690-515-0020

Bear Creek Basin

(1) Classifications:

(a) In accordance with the Order of the State Engineer dated January 22, 1959 (Special Order Vol 9, Page 489), the waters of Bear Creek and its tributaries are withdrawn from further appropriation except for storage of water from November 1 through March 30 and the appropriation of stored water;

(b) No applications for appropriation of water shall be approved except for beneficial uses involving water legally stored in excess of the amount necessary for existing rights;

(c) 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 applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Water Quality: Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not significantly interfere with recreational, fish life, or other beneficial uses of water.

(3) Power Development: Rights to use of water for power development purposes shall be issued only on the condition, as demonstrated by the applicant, that any dams, diversions, generating facility, or return flows shall not significantly interfere with recreational, fish life or other beneficial uses of water.

(4) Storage:

(a) Potential reservoir sites should be identified in the comprehensive land-use planning process for possible future development or until alternative methods of meeting water needs have been developed. Immediate consideration should be given to the following sites:

(A) Walker Creek, NE 1/4 Section 12, Township 39 South, Range 1 East, Willamette Meridian;

(B) West Fork Ashland Creek (Winburn site), NE 1/4 Section 32, Township 39 South, Range 1 East, Willamette Meridian;

(C) West Fork Ashland Creek (Ranger site), SW 1/4 Section 28, Township 39 South, Range 1 East, Willamette Meridian.

(b) Storage projects consistent with the purposes of minimum perennial streamflows shall be encouraged.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

690-515-0030

Applegate River Basin

(1) Classifications:

(a) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the Applegate River Basin are classified for domestic, livestock, municipal, irrigation, agricultural use, power development, industrial, mining, recreation, wildlife and fish life, with the following exceptions:

(A) The waters of the following streams and tributaries are classified for domestic, livestock, power development except for those streams listed in paragraph (C) of this subsection, irrigation of noncommercial gardens not to exceed 1/2 acre in area, and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for any purpose specified in subsection (a) of this section:

(i) Palmer Creek;

(ii) Beaver Creek;

(iii) Little Applegate River;

(iv) Forest Creek;

(v) Williams Creek;

(vi) Cheney Creek;

(vii) Slate Creek.

(B) The waters of Thompson Creek and tributaries are classified for domestic, livestock and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for purposes specified in subsection (a) of this section;

(C) To protect, maintain and perpetuate anadromous fish habitat and propagation, the waters of the following stream reaches shall not be diverted, interrupted or appropriated for hydropower development purposes:

(i) Palmer Creek from the confluence with Bailey Gulch downstream to the mouth;

(ii) Beaver Creek from the intersection with the east line of Section 11, Township 40 South, Range 3 West, Willamette Meridian, to the mouth;

(iii) Little Applegate River Subbasin:

(I) Little Applegate River from the confluence with Lake Creek downstream to the mouth;

(II) Glade Creek from the confluence with Mule Gulch downstream to the mouth;

(III) Yale Creek from the intersection with the east line of Section 22, Township 40 South, Range 2 West, Willamette Meridian, to the mouth;

(IV) Sterling Creek from the intersection with the east line of Section 8, Township 39 South, Range 2 West, Willamette Meridian, to the mouth.

(iv) Forest Creek from the intersection with the north line of Section 15, Township 38 South, Range 3 West, Willamette Meridian, to the mouth;

(v) Thompson Creek from the intersection with the south line of Section 24, Township 39 South, Range 5 West, Willamette Meridian, to the mouth and the tributary of Ninemile Creek from the intersection with the east line of Section 30, Township 39 South, Range 4 West, Willamette Meridian, to the mouth;

(vi) Williams Creek Subbasin:

(I) Williams Creek from the confluence with the East Fork and West Fork of Williams Creek downstream to the mouth;

(II) East Fork Williams Creek from the first intersection with the east line of Section 26, Township 39 South, Range 5 West, Willamette Meridian, to the mouth and the tributary of Rock Creek from the confluence with Horsetail Creek downstream to the mouth;

(III) West Fork Williams Creek from the confluence with Right Hand Fork of the West For, Williams Creek downstream to the mouth;

(IV) Right Hand Fork of the West Fork Williams Creek from the intersection with the south line of Section 13, Township 39 South, Range 6 West, Willamette Meridian, to the confluence of the West Fork Williams Creek;

(V) Bill Creek from the confluence with Bear Wallow Creek downstream to the mouth;

(VI) Munger Creek from the confluence with North Fork Munger Creek downstream to the mouth;

(VII) Powell Creek from the intersection with the west line of Section 167, Township 38 South, Range 5 West, Willamette Meridian, to the mouth.

(vii) Cheney Creek from the intersection with the south line of Section 22, Township 37 South, Range 7 West, Willamette Meridian, to the mouth and the tributary of Little Cheney Creek from the intersection with the south line of Section 18, Township 37 South, Range 6 West, Willamette Meridian, to the mouth;

(viii) Slate Creek Subbasin:

(I) Slate Creek from the intersection with the north line of Section 1, Township 37 South, Range 8 West, Willamette Meridian, to the mouth;

(II) Ramsey Creek from the intersection with the north line of Section 13, Township 37 South, Range 8 West, Willamette Meridian, to the mouth;

(III) Butcherknife Creek from the intersection with the west line of Section 18, Township 37 South, Range 7 West, Willamette Meridian, to the mouth;

(IV) Waters Creek from the intersection with the west line of Section 32, Township 36 South, Range 7 West, Willamette Meridian, to the mouth;

(V) The entire length of Bear Creek;

(VI) Salt Creek from the intersection with the north line of Section 8, Township 37 South, Range 7 West, Willamette Meridian, to the mouth;

(VII) Elliott Creek from the intersection with the south line of Section 15, Township 37 South, Range 7 West, Willamette Meridian, to the mouth;

(VIII) Round Prairie Creek from the intersection with the north line of Section 3, Township 37 South, Range 7 West, Willamette Meridian, to the mouth and the tributary of South Fork Round Prairie Creek from the intersection with the west line of Section 2, Township 37 South, Range 7 West, Willamette Meridian, to the mouth.

(b) 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 applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Storage:

(a) Storage projects consistent with the purposes of minimum perennial streamflows shall be encouraged;

(b) Reservoir sites should be protected through the comprehensive land-use planning process for possible further development or until alternative methods of meeting water needs have been developed. Immediate concern should be given to the following sites as delineated on Water Resources Department map file number 15B.4, Plate 4:

(A) Little Applegate River, site 26;

(B) Waters Creek, site 112;

(C) Elliott Creek, site 110.

(3) Minimum Perennials Streamflows:

(a) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, and of attaining the highest and best use of waters released from storage, no appropriations of water except for domestic, livestock and irrigation of noncommercial gardens not to exceed 1/2 acre in area or waters legally released from storage shall be granted for the waters of the Applegate River or its tributaries for flows below the specified levels in Table 3, Section A;

(b)(A) To support aquatic life and minimize pollution in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be granted for the waters of Williams Creek and Thompson Creek and tributaries for flows below the specified levels in Table 3, Section B. This limitation shall not apply to:

(i) Domestic and livestock uses. Domestic use does not include irrigation of lawns and gardens;

(ii) Water legally stored or released from storage, subject to paragraph (1)(a)(C) of this rule.

(B) Attainment of the specified flow levels during some portions of the year will require development of water storage or implementation of other measures to augment flows.

(4) Water Quality: Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with recreational, fish life, or other beneficial uses of water.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

690-515-0040

Middle Rogue Basin

(1) Classifications:

(a) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the Middle Rogue River are classified for domestic, livestock, municipal, irrigation, agricultural use, power development, industrial, mining, recreation, wildlife and fish life, with the following exceptions:

(A) The waters within the Rogue River Scenic Waterway from the confluence with the Applegate River near river mile 95 to Lobster Creek Bridge near river mile 11 are classified for domestic, livestock, and irrigation of one-half acre noncommercial garden, and instream use for recreation, wildlife and fish life;

(B) Those waters on which development is further restricted by ORS 542.210;

(C) In accordance with ORS 538.270, the waters of the main channel of the Rogue River (excluding tributaries) from its intersection with the south line of Section 27, T33S, R1E, W.M. to its confluence with the Pacific Ocean, are withdrawn from appropriation for any purpose except domestic, stock, irrigation, municipal, fish, wildlife, recreation, and road maintenance;

(D) The waters of the following streams and tributaries are classified only for domestic use, livestock consumption and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for any purpose specified in subsection (a) of this section. Domestic use does not include irrigation of lawns and gardens:

(i) Galls Creek;

- (ii) Foots Creek;
- (iii) Birdseye Creek;
- (iv) Sardine Creek;
- (v) Same Creek;
- (vi) Kane Creek;
- (vii) Fruitdale Creek;
- (viii) Ward Creek;
- (ix) Gilbert Creek;
- (x) Jones Creek;
- (xi) Savage Creek.

(E) The waters of the following streams and tributaries, are classified only for domestic, livestock and irrigation of one-half acre noncommercial garden and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for any purpose specified in subsection (a) of this section:

- (i) Pickett Creek;
- (ii) Limpy Creek;
- (iii) Snider Creek;
- (iv) Shan Creek.

(F) The waters of the following streams and tributaries, are classified only for domestic, livestock, irrigation of one-half acre noncommercial garden, mining during the period November 1 to May 1, power development and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for any purpose specified in subsection (a) of this section:

- (i) Grave Creek;
- (ii) Evans Creek.

(G) The waters of Jumpoff Joe Creek and tributaries are classified only for domestic, livestock, irrigation of one-half acre noncommercial garden, industrial, mining during the period November 1 to May 1, power development and instream use for recreation, fish life and wildlife, except for the use of stored water. Water diverted for storage between November 1 and March 31 may be used for any purpose specified in subsection (a) of this section;

(H) To protect, maintain and perpetuate anadromous fish habitat and propagation within the Middle Rogue Basin, the waters of the following stream reaches shall not be diverted, interrupted or appropriated for hydropower development purposes:

(i) Galice Creek from the intersection with the south line of Section 10, Township 35 South, Range 8 West, Willamette Meridian, downstream to the mouth;

(ii) North Fork Galice Creek from the intersection with the west line of Section 5, Township 35 South, Range 8 West, Willamette Meridian, downstream to the mouth;

(iii) Taylor Creek from the intersection with the east line of Section 34, Township 35 South, Range 8 West, Willamette Meridian, downstream to the mouth;

(iv) South Fork Taylor Creek from the intersection with the south line of Section 28, Township 35 South, Range 8 West, Willamette Meridian, downstream to the mouth;

(v) Lone Tree Creek from the intersection with the north line of Section 32, Township 35 South, Range 8 West, Willamette Meridian, downstream to the mouth;

(vi) Minnow Creek from the intersection with the south line of Section 34, Township 35 South, Range 8 West, Willamette Meridian, downstream to the mouth.

(b) 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 applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Storage:

(a) Storage projects consistent with the purposes of minimum perennial streamflows shall be encouraged;

(b) Potential reservoir sites should be identified in the comprehensive land-use planning process for possible future development or until alternative methods of meeting water needs have been developed. Immediate consideration should be given to the following sites:

(A) Grave Creek, SE 1/4, Section 6, Township 34 South, Range 4 West, Willamette Meridian;

(B) Jumpoff Joe Creek, NE 1/4, Section 36, Township 34 South, Range 6 West, Willamette Meridian;

(C) Evans Creek, SE 1/4, Section 19, Township 34 South, Range 2 West, Willamette Meridian;

(D) West Fork Evans Creek, SE 1/4 Section 32, Township 33 South, Range 3 West, Willamette Meridian.

(3) Minimum Perennial Streamflows:

(a) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water shall be granted for the waters of the Rogue River or tributaries above Raygold for flows of the Rogue River below 1200 cubic feet per second, except that this limitation shall not apply to:

(A) Waters legally stored or legally released from storage;

(B) Domestic and livestock uses. Domestic use does not include irrigation of lawns and gardens.

(b) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water shall be granted for the waters of the Rogue River or tributaries above Savage Rapids Dam for flows of the Rogue River below 1,200 cubic feet per second, except that this limitation shall not apply to:

(A) Water legally stored or legally released from storage;

(B) Domestic and livestock uses. Domestic use does not include irrigation of lawns and gardens.

(c) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water except for domestic or livestock use shall be granted, except that this limitation shall not apply to water legally stored or legally released from storage, for the waters of the Rogue River tributaries listed in Table 4, Section B when flows are below the specified levels. Domestic use does not include irrigation of lawns and gardens;

(d)(A) To support aquatic life and minimize pollution in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be granted for the waters of the Rogue River tributaries listed in Table 4, Section C when flows are below the levels specified. This limitation shall not apply to:

(i) Domestic and livestock uses. Domestic use does not include the irrigation of lawns and gardens;

(ii) Water legally stored or released from storage subject to the provisions of subsection (2)(a) of this rule.

(B) Attainment of the specified flow levels during some portions of the year will require development of water storage or implementation of other measures to augment flows.

(4) Water Quality: Rights to use of water for industrial, power development, or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not significantly interfere with recreational, fish life or other beneficial uses of water.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

690-515-0050

Illinois Basin

(1) Classifications:

(a) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the Illinois River Basin are classified for domestic, livestock, municipal, irrigation, agricultural use, power development, industrial, mining, recreation, wildlife and fish life uses including propagation, with the following exceptions:

(A) The waters within the Illinois River Scenic Waterway from the confluence with Deer Creek near river mile 47 to the confluence with the Rogue River are classified only for domestic and livestock uses and instream use for recreation, wildlife and fish life;

(B) The waters of the following streams and all tributaries are classified only for domestic, livestock, agricultural use, municipal, industrial, power development except for those streams listed in paragraph (C) of this subsection, mining use during the period November 1 to May 1, fish propagation, irrigation use for noncommercial gardens not exceeding one-half acre in area, and instream use for recreation, fish life and wildlife. Water stored between November 1 and March 1 may be used for purposes specified in subsection (a) of this section:

(i) Deer Creek;

(ii) East Fork Illinois River, except Althouse and Sucker Creeks and their tributaries;

(iii) West Fork Illinois River.

(C) The waters of Althouse and Sucker Creeks and tributaries are classified only for domestic, livestock and non-consumptive instream uses for fish life, wildlife and recreation between May 1 and November 30. Althouse and Sucker Creeks and tributaries are classified for domestic, livestock, mining (subject to Division 51 restrictions and except for those streams listed in paragraph (D) of this subsection), storage, and instream uses for fish life, wildlife and recreation between December 1 and April 30. Water diverted for storage between December 1 and April 30 may be used for any beneficial purpose. Permits shall be conditioned to prevent obstacles to fish migration and degradation of rearing or spawning habitat;

(D) To protect, maintain and perpetuate anadromous fish habitat and propagation, the waters of the following stream reaches shall not be diverted, interrupted or appropriated for hydropower development purposes:

(i) West Fork Illinois River Subbasin:

(I) West Fork Illinois River from the confluence with Whiskey Creek downstream to the mouth;

(II) Whiskey Creek from the intersection with the west line of Section 8, Township 41 South, Range 9 West, Willamette Meridian, to the mouth;

(III) Elk Creek from the Oregon-California border downstream to the mouth;

(IV) Trapper Gulch from the intersection with the east line of Section 13, Township 41 South, Range 9 West, Willamette Meridian, to the mouth;

(V) Dwight Creek from the Oregon-California border downstream to the mouth;

(VI) Wood Creek from the potential reservoir site in SE 1/4 of NW 1/4 of Section 32, Township 40 South, Range 8 West, Willamette Meridian, to the mouth and the tributary of Fry Gulch from the intersection with the east line of Section 29, Township 40 South, Range 8 West, Willamette Meridian, to the mouth;

(VII) Rough and Ready Creek from the confluence with the North and South forks downstream to the mouth;

(VIII) North Fork Rough and Ready Creek from the intersection with the west line of Section 8, Township 40 South, Range 9 West, Willamette Meridian, to the mouth;

(IX) South Fork Rough and Ready Creek from the intersection with the west line of Section 20, Township 40 South, Range 9 West, Willamette Meridian, to the mouth.

(X) Mendenhall Creek from the intersection with the west line of Section 6, Township 40 South, Range 8 West, Willamette Meridian, to the mouth and the tributary of Parker Creek from the

intersection with the west line of Section 7, Township 40 South, Range 8 West, Willamette Meridian, to the mouth;

(XI) Woodcock Creek from the intersection with the west line of Section 32, Township 39 South, Range 8 West, Willamette Meridian, to the mouth.

(ii) East Fork Illinois River Subbasin:

(I) East Fork Illinois River from the Oregon-California border downstream to the mouth;

(II) Page Creek from the intersection with the east line of Section 2, Township 41 South, Range 8 West, Willamette Meridian, to the mouth;

(III) Elder Creek from the intersection with the east line of Section 26, Township 40 South, Range 8 West, Willamette Meridian, to the mouth;

(IV) Althouse Creek from the potential reservoir site in SW 1/4 of SW 1/4 of Section 4, Township 40 South, Range 7 West, Willamette Meridian, to the mouth;

(V) Sucker Creek from the potential reservoir site in NE 1/4 of Section 25, Township 39 South, Range 7 West, Willamette Meridian, to the mouth;

(VI) Little Grayback Creek from the intersection with the south line of Section 13, Township 39 South, Range 7 West, Willamette Meridian, to the mouth;

(VII) Bear Creek from the intersection with the north line of Section 21, Township 39 South, Range 7 West, Willamette Meridian, to the mouth;

(VIII) Chapman Creek from the confluence with East Fork Chapman Creek downstream to the mouth.

(iii) Holton Creek from the intersection with the east line of Section 10, Township 39 South, Range 8 West, Willamette Meridian, to the mouth;

(iv) Reeves Creek from the intersection with the east line of Section 34, Township 38 South, Range 8 West, Willamette Meridian, to the mouth;

(v) Josephine Creek from the intersection with the west line of Section 26, Township 39 South, Range 9 West, Willamette Meridian, to the mouth and the tributary of Canyon Creek from the confluence with Sebastopol Creek downstream to the mouth;

(vi) Deer Creek Subbasin:

(I) Deer Creek from the confluence with North Fork and South Fork Deer Creek downstream to the mouth;

(II) South Fork Deer Creek from the intersection with the south line of Section 29, Township 38 South, Range 6 West, Willamette Meridian, to the mouth;

(III) North Fork Deer Creek from the intersection with the north line of Section 18, Township 38 South, Range 6 West, Willamette Meridian, to the mouth;

(IV) White Creek from the intersection with the south line of Section 13, Township 38 South, Range 7 West, Willamette Meridian, to the mouth;

(V) Crooks Creek from the intersection with the east line of Section 34, Township 37 South, Range 7 West, Willamette Meridian, to the mouth;

(VI) Thompson Creek from the confluence with Haven Creek downstream to the mouth;

(VII) Draper Creek from the intersection with the east line of Section 31, Township 37 South, Range 7 West, Willamette Meridian, to the mouth;

(VIII) Clear Creek from the intersection with the west line of Section 23, Township 37 South, Range 8 West, Willamette Meridian, to the mouth and the tributary of Anderson Creek from the intersection with the north line of Section 35, Township 37 South, Range 8 West, Willamette Meridian, to the mouth.

(vii) Sixmile Creek from the intersection with the north line of Section 25, Township 37 South, Range 9 West, Willamette Meridian, to the mouth;

(viii) Fall Creek from the intersection with the south line of Section 4, Township 38 South, Range 9 West, Willamette Meridian, to the mouth;

(ix) Rancherie Creek from the intersection with the west line of Section 17, Township 38 South, Range 9 West, Willamette Meridian, to the mouth;

(x) Dailey Creek from the intersection with the west line of Section 31, Township 37 South, Range 9 West, Willamette Meridian, to the mouth;

(xi) Briggs Creek Subbasin:

(I) The entire mainstem of Briggs Creek;

(II) Horse Creek from the intersection with the east line of Section 8, Township 36 South, Range 8 West, Willamette Meridian, to the mouth;

(III) Myers Creek from the confluence with Dutchy Creek downstream to the mouth and the tributary of Dutchy Creek from the intersection with the north line of Section 7, Township 36 South, Range 8 West, Willamette Meridian, to the mouth;

(IV) Brush Creek from the intersection with the north line of Section 18, Township 36 South, Range 8 West, Willamette Meridian, to the mouth;

(V) Secret Creek from the intersection with the east line of Section 16, Township 36 South, Range 8 West, Willamette Meridian, to the mouth;

(VI) Onion Creek from the intersection with the south line of Section 29, Township 36 South, Range 8 West, Willamette Meridian, to the mouth;

(VII) Swede Creek from the intersection with the east line of Section 1, Township 37 South, Range 9 West, Willamette Meridian, to the mouth;

(VIII) Soldier Creek from the confluence with Horse Creek downstream to the mouth and the tributary of Horse Creek from the intersection with the east line of Section 11, Township 37 South, Range 9 West, Willamette Meridian, to the mouth.

(xii) Panther Creek from the intersection with the north line of Section 31, Township 36 South, Range 9 West, Willamette Meridian, to the mouth;

(xiii) Labrador Creek from the intersection with the south line of Section 12, Township 37 South, Range 10 West, Willamette Meridian, to the mouth;

(xiv) Nome Creek from the intersection with the south line of Section 12, Township 37 South, Range 10 West, Willamette Meridian, to the mouth;

(xv) Clear Creek from the intersection with the east line of Section 35, Township 36 South, Range 10 West, Willamette Meridian, to the mouth;

(xvi) Pine Creek from the first intersection with the east line of Section 27, Township 36 South, Range 10 West, Willamette Meridian, to the mouth;

(xvii) Klondike Creek from the intersection with the south line of Section 10, Township 36 South, Range 10 West, Willamette Meridian, to the mouth and the tributary of Yukon Creek from the intersection with the south line of Section 5, Township 37 South, Range 10 West, Willamette Meridian, to the mouth;

(xviii) Collier Creek from the intersection with the west line of Section 7, Township 37 South, Range 11 West (projected), Willamette Meridian, to the mouth;

(xix) Silver Creek Subbasin:

(I) Silver Creek from the confluence with South Fork Silver Creek downstream to the mouth;

(II) South Fork Silver Creek from the intersection with the east line of Section 21, Township 36 South, Range 10 West, Willamette Meridian, to the mouth;

(III) North Fork Silver Creek from the intersection with the east line of Section 18, Township 35 South, Range 9 West, Willamette Meridian, to the mouth.

(xx) Indigo Creek from the intersection with the east line of Section 31, Township 35 South, Range 10-1/2 West, Willamette Meridian, to the mouth and the tributary of North Fork Indigo Creek from the intersection with the north line of Section 34, Township 35 South, Range 11 West, Willamette Meridian, to the mouth;

(xxi) Horse Sign Creek from the intersection with the south line of Section 7, Township 36 South, Range 11 West, Willamette Meridian, to the mouth;

(xxii) Lawson Creek from the intersection with the west line of Section 2, Township 36 South, Range 12 West (projected), Willamette Meridian, to the mouth;

(xxiii) Fox Creek from the intersection with the south line of Section 19, Township 35 South, Range 11 West, Willamette Meridian, to the mouth.

(E) The waters of the mainstem Illinois River from the confluence of the East and West Forks Illinois River downstream to the confluence with Deer Creek near river mile 47 are classified only for domestic, livestock and agricultural uses, fish propagation, irrigation use for noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period July 1 to October 31. Water diverted for storage between November 1 and March 31 may be used for purposes specified in subsection (a) of this section.

(b) 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 applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Storage:

(a) Storage projects consistent with the purposes of minimum flows shall be encouraged;

(b) Potential reservoir sites should be identified through the comprehensive land-use planning process for possible future development or until alternative methods of meeting water needs have been developed. Immediate concern should be given to the following sites:

(A) Wood Creek, SE 1/4 NW 1/4 Section 32, Township 40 South, Range 8 West, Willamette Meridian;

(B) Sucker Creek, NE 1/4 Section 25, Township 39 South, Range 7 West, Willamette Meridian;

(C) Upper Althouse Creek, SW 1/4 SW 1/4 Section 4, Township 40 South, Range 7 West, Willamette Meridian.

(3) Minimum Perennial Streamflows:

(a) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water except for domestic and livestock use shall be granted, except that this limitation shall not apply to water legally stored or legally released from storage, for the waters of the Illinois River or the tributaries above the confluence with the Rogue River for flows of the Illinois River at the mouth below 80 cubic feet per second and when flows are below the specified levels listed in Table 5, Section A. Domestic use does not include irrigation of lawn and garden;

(b)(A) To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be granted, for the waters of the following Illinois River tributaries listed in Table 5, Section B when flows are below the specified levels. This limitation shall not apply to:

(i) Domestic and livestock use. Domestic use does not include irrigation of lawns and gardens;

(ii) Water legally stored or released from storage subject to provisions of section A5.

(B) Attainment of the specified flow levels during some portion of the year will require development of water storage or implementation of other measures to augment flows.

(4) Water Quality: Rights to use of water for industrial, power development, or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with recreational, fish life, or other beneficial uses of water.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

690-515-0060

Lower Rogue Basin

(1) Classifications:

(a) In accordance with ORS 536.220, 536.300, 536.310 and 536.340, the waters of the Lower Rogue River Basin are classified for domestic, livestock, municipal, irrigation, agricultural use,

power development, industrial, mining, recreation, wildlife, and fish life, with the following exceptions:

(A) The waters within the Rogue River Scenic Waterway from the confluence with Applegate River near river mile 95 to Lobster Creek Bridge near river mile 11 are classified for domestic, livestock, and irrigation of one-half acre noncommercial garden, and instream use for recreation, wildlife and fish life;

(B) Those waters on which development is further restricted by ORS 542.210;

(C) In accordance with ORS 538.270, the waters of the main channel of the Rogue River (excluding tributaries) from its intersection with the south line of Section 27, T33S, R1E, W.M. to its confluence with the Pacific Ocean, are withdrawn from appropriation for any purpose except domestic, stock, irrigation, municipal, fish, wildlife, recreation, and road maintenance;

(D) To protect, maintain and perpetuate anadromous fish habitat and propagation within the Lower Rogue Basin, the waters of the following stream reaches of tributaries to the Rogue River shall not be diverted, interrupted or appropriated for hydropower development purposes:

(i) Lobster Creek from the confluence of the North and South Forks of Lobster Creek, downstream to the mouth;

(ii) North Fork Lobster Creek from the intersection with the east line of Section 15, Township 34 South, Range 13 West, Willamette Meridian, downstream to the mouth;

(iii) South Fork Lobster Creek from the intersection with the east line of Section 30, Township 34 South, Range 12 West, Willamette Meridian, downstream to the mouth;

(iv) Shasta Costa Creek from the intersection with the east line of Section 35, Township 34 South, Range 11 West, Willamette Meridian, downstream to the mouth;

(v) Foster Creek from the intersection with the west line of Section 12, Township 34 South, Range 12 West, Willamette Meridian, downstream to the mouth;

(vi) Quosatana Creek from the intersection with the projected south line of Section 23, Township 36 South, Range 13 West, Willamette Meridian, downstream to the mouth;

(vii) Jim Hunt Creek from the intersection with the south line of Section 14, Township 36 South, Range 14 West, Willamette Meridian, downstream to the mouth;

(viii) Mule Creek from the intersection with the east line of Section 26, Township 32 South, Range 10 West, Willamette Meridian, downstream to the mouth.

(b) 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 applicable provisions of ORS 536.310 and any

such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Minimum Perennial Streamflows: For the purpose of maintaining minimum perennial streamflow sufficient to support aquatic life and minimize pollution, no appropriations of water shall be granted for the waters of the Rogue River or the tributaries above the mouth for flows of the Rogue River at the mouth below 935 cubic feet per second, except that this limitation shall not apply to:

(a) Water legally stored or legally released from storage;

(b) Domestic and livestock uses. Domestic use does not include irrigation of lawns and gardens.

(3) Water Quality: Rights to use of water for industrial, power development or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not significantly interfere with recreational, fish life, or other beneficial uses of water.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: (Rogue River Basin: WRB 4, f. 5-22-59; WRB 5, f. 10-12-59; WRB 27, f. 5-11-64; WRB 33, f. 3-25-66; WRB 37, f. 12-21-66; WRB 41, f. 10-14-69; WRD 3-1981, f. & cert. ef. 5-12-9-81; WRD 11-1982, f. & cert. ef. 9-27-82; WRD 5-1983, f. & cert., ef. 8-19-83; WRD 6-1983, f. & cert. ef. 10-19-83; WRD 3-1984, f. & cert. ef. 7-5-84; WRD 3-1989, f. & cert. ef. 2-9-89; Upper Rogue River Basin: WRB 27, f. 5-11-64; Little Butte Creek Basin: WRB 33, f. 3-25-66; Bear Creek Basin: WRB 37, f. 12-21-66); Administrative Renumbering 1-1993, Renumbered from 690-080-0150; WRD 3-2012, f. & cert. ef. 12-12-12

DIVISION 516

UMPQUA BASIN PROGRAM

NOTE: The Umpqua River Basin is delineated on State Water Resources Board Map 16.6, dated 1969, available from the agency.

690-516-0005

Classifications

(1) In accordance with ORS 536.220, 536.300, 536.310 and 536.340, the waters of the Umpqua River Basin are classified for domestic, livestock, municipal, irrigation, temperature control, power development, industrial, mining, recreation, wildlife, fish life, with the following exceptions:

(a) Preference shall be given to human consumption, livestock consumption and irrigation of non-commercial gardens not to exceed one-half acre in area for all the waters of the Umpqua River Basin over any other beneficial uses;

(b) The waters of the natural lakes of the Umpqua River Basin are classified for the utilization of water for domestic, livestock, power development not to exceed 7-1/2 theoretical horsepower, and in-lake uses for recreation, wildlife, and fish life purposes;

(c) The waters of Roberts Creek and its tributaries were withdrawn by Water Resources Commission's Order of Withdrawal on October 4, 1991;

(d) The unappropriated waters of Lookingglass Creek and tributaries are withdrawn from further appropriation except for domestic and livestock watering uses under 5,000 gallons per day per appropriation and water legally stored and released from storage from June 1 through September 30 of each year, by the Water Policy Review Board's Order of Withdrawal dated April 3, 1983.

(e) The unappropriated waters of the South Umpqua River and tributaries, excluding Lookingglass and Roberts Creeks, are withdrawn from further appropriation except for human consumption, livestock consumption, irrigation of up to 1/2-acre non-commercial garden and water legally released from storage from July 15 through September 30 of each year, by the

Water Policy Review Board's Order of Withdrawal dated April 29, 1985. This limitation shall not affect the withdrawals previously enacted by the Board for the waters of Roberts and Lookingglass Creeks.

(f) In accordance with ORS 538.140, the waters of Diamond Lake and tributaries shall not be diverted or interrupted for any purpose and are withdrawn from further appropriation, except for domestic use on contiguous and surrounding land or other water uses necessary to maintain, increase and perpetuate game fish and game fish propagation in Diamond Lake and its tributaries.

(2) Structures or works for 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 works which do not give cognizance to the multiple-purpose concept are further declared to be prejudicial to the public interest.

Stat. Auth.: ORS 536.300, 536.340 & 536.410

Stats. Implemented:

Hist.: (WRB 9, f. 4-21-59; WRB 11, f. 10-31-60; WRB 22, f. 11-16-62; WRB 27, 5-11-64; WRB 58, f. 4-15-74; WRD 8(Temp), f. 7-22-77; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 6-1981(Temp), f. & cert. ef. 8-25-81; WRD 8-1982, f. & cert. ef. 7-1-82; WRD 7-1984, f. & cert. ef. 12-27-84; WRD 4-1985, f. & cert. ef. 5-15-85; WRD 8-1985, f. & cert. ef. 8-2-85; WRD 9-1985, f. 8-2-85; South Umpqua WRB 22, f. 11-16-62; Main Stem-Umpqua System, WRB 27, f. 5-11-64) WRD 8-1991, f. & cert. ef. 11-7-91, Renumbered from 690-080-0160; WRD 3-2012, f. & cert. ef. 12-12-12

690-516-0010

Minimum Perennial Streamflows

(1) For the purpose of maintaining minimum perennial streamflows sufficient to support aquatic life, no appropriations of water except for human consumption, livestock consumption and irrigation of non-commercial gardens not to exceed one-half acre in area and waters legally released from storage shall be granted for waters of the following streams when flows are at or below the levels specified in Table 1.

(2) The minimum perennial streamflows established by the October 24, 1958, Umpqua Basin program shall remain in effect over appropriations issued from October 24, 1958 to March 26, 1974.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536.300, 536.340 & 536.410

Stats. Implemented:

Hist.: (WRB 9, f. 4-21-59; WRB 11, f. 10-31-60; WRB 22, f. 11-16-62; WRB 27, 5-11-64; WRB 58, f. 4-15-74; WRD 8(Temp), f. 7-22-77; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 6-

1981(Temp), f. & cert. ef. 8-25-81; WRD 8-1982, f. & cert. ef. 7-1-82; WRD 7-1984, f. & cert. ef. 12-27-84; WRD 4-1985, f. & cert. ef. 5-15-85; WRD 8-1985, f. & cert. ef. 8-2-85; WRD 9-1985, f. 8-2-85; South Umpqua WRB 22, f. 11-16-62; Main Stem-Umpqua System, WRB 27, f. 5-11-64) WRD 8-1991, f. & cert. ef. 11-7-91, Renumbered from 690-080-0160; WRD 3-2012, f. & cert. ef. 12-12-12

690-516-0030

Out-of-Basin Appropriations

To support present and proposed Umpqua River Basin water resource development, no out-of-basin appropriation of the waters of the Umpqua River Basin shall be granted without the prior approval of, and following a public hearing by, the Water Resources Commission.

Stat. Auth.: ORS 536.300, 536.340 & 536.410

Stats. Implemented:

Hist.: (WRB 9, f. 4-21-59; WRB 11, f. 10-31-60; WRB 22, f. 11-16-62; WRB 27, 5-11-64; WRB 58, f. 4-15-74; WRD 8(Temp), f. 7-22-77; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 6-1981(Temp), f. & cert. ef. 8-25-81; WRD 8-1982, f. & cert. ef. 7-1-82; WRD 7-1984, f. & cert. ef. 12-27-84; WRD 4-1985, f. & cert. ef. 5-15-85; WRD 8-1985, f. & cert. ef. 8-2-85; WRD 9-1985, f. 8-2-85; South Umpqua WRB 22, f. 11-16-62; Main Stem-Umpqua System, WRB 27, f. 5-11-64) WRD 8-1991, f. & cert. ef. 11-7-91, Renumbered from 690-080-0160; WRD 3-2012, f. & cert. ef. 12-12-12

690-516-0040

Water Quality

Rights to use of water granted by any state agency in accordance with this water-use program shall be issued only on the condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

Stat. Auth.: ORS 536.300, 536.340 & 536.410

Stats. Implemented:

Hist.: (WRB 9, f. 4-21-59; WRB 11, f. 10-31-60; WRB 22, f. 11-16-62; WRB 27, 5-11-64; WRB 58, f. 4-15-74; WRD 8(Temp), f. 7-22-77; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 6-1981(Temp), f. & cert. ef. 8-25-81; WRD 8-1982, f. & cert. ef. 7-1-82; WRD 7-1984, f. & cert. ef. 12-27-84; WRD 4-1985, f. & cert. ef. 5-15-85; WRD 8-1985, f. & cert. ef. 8-2-85; WRD 9-1985, f. 8-2-85; South Umpqua WRB 22, f. 11-16-62; Main Stem-Umpqua System, WRB 27, f. 5-11-64) WRD 8-1991, f. & cert. ef. 11-7-91, Renumbered from 690-080-0160

DIVISION 517

SOUTH COAST BASIN PROGRAM

NOTE: The South Coast Basin is delineated on agency Map, File 17.6, available from the agency.

690-517-0000

Classifications

(1) Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Tenmile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.

(2) The waters of the following lakes are classified for domestic, livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes, or require outlet control structures to protect recreation, fish life and wildlife uses:

(a) Bradley Lake;

(b) Eel Lake;

(c) Garrison Lake.

(3) All other natural lakes are classified for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

(4) The waters of Glenn Creek (tributary to the East Fork, Millicoma River) and its tributaries are classified for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife;

(5) The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water diverted for storage between October 1 and June 30 may be used for any purpose specified in section 11 of this rule.

(6) The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife.

(7) The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek — Geiger Creek confluence are classified for municipal use.

(8) In accordance with ORS 538.120, the waters of Brush Creek (Brushes Creek) and its tributaries are withdrawn from further appropriation or condemnation, and shall not be diverted or interrupted for any purpose except for use in state parks or as otherwise prescribed by ORS 538.120.

(9) The waters of Clear Lake are withdrawn from further appropriation by order of the State Engineer dated October 4, 1940 (Special Order Vol 3, Pg 504).

(10) The waters of Edna Lake are withdrawn from further appropriation by order of the State Engineer dated October 4, 1940 (Special Order Vol 3, Pg 504).

(11) All other surface and ground water resources are classified for domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife and fish life uses.

(12) The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.

[ED. NOTE: Tables referenced are not included in rule text. Click here for PDF copy of table(s).]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRB 24, f. 12-16-63; WRB f. 6-2-64; WRD 4, f. 5-6-77; WRD 6, f. 7-5-77; WRD 1-1979, f. & cert. ef. 2-1-79; WRD 6-1980, f. & cert. ef. 4-11-80; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 5-1984, f. & cert. ef. 10-30-84; Administrative Renumbering 1-1993, Renumbered from 690-080-0170; WRD 3-2012, f. & cert. ef. 12-12-12

690-517-0010

Reservations

Water in the amounts specified is reserved in the following streams for municipal use:

- (1) Chetco River — three cfs, downstream from the confluence with the North Fork Chetco River.
- (2) Winchuck River — one cfs, downstream from the confluence with Bear Creek.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRB 24, f. 12-16-63; WRB f. 6-2-64; WRD 4, f. 5-6-77; WRD 6, f. 7-5-77; WRD 1-1979, f. & cert. ef. 2-1-79; WRD 6-1980, f. & cert. ef. 4-11-80; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 5-1984, f. & cert. ef. 10-30-84; Administrative Renumbering 1-1993, Renumbered from 690-080-0170

690-517-0020

Minimum Perennial Streamflows

(1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

(2) The Water Resources Commission requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Commission's minimum flow regime or the public interest. The Water Resources Commission intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Commission solicits the advice or complaints of any party who is aware that the objectives are not being met.

(3) Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 2), shall remain in full force and effect except as follows:

(a) The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded;

(b) The minimum perennial streamflow for the Coquille River Middle Fork above Bear Creek (4 cfs) is rescinded;

(c) The minimum perennial streamflow for the Sixes River above the U.S. Highway 101 crossing is reduced to 25 cfs during the period from August 1 to September 30;

(d) The minimum perennial streamflow for the South Fork Coquille River near Powers is reduced to 15 cfs during the period from June 16 to September 30.

(4) For purposes of distributing water, minimum flows established in 1964 shall be considered part of and not in addition to revised minimum flow regimes.

(5) To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be granted for the waters of the Coquille River and tributaries when flows are below the specified levels in Table 2. This limitation shall not apply to:

(a) Domestic and livestock uses and irrigation of non-commercial gardens not exceeding 1/2 acre in area;

(b) Water legally released from storage.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRB 24, f. 12-16-63; WRB f. 6-2-64; WRD 4, f. 5-6-77; WRD 6, f. 7-5-77; WRD 1-1979, f. & cert. ef. 2-1-79; WRD 6-1980, f. & cert. ef. 4-11-80; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 5-1984, f. & cert. ef. 10-30-84; Administrative Renumbering 1-1993, Renumbered from 690-080-0170; WRD 3-2012, f. & cert. ef. 12-12-12

690-517-0030

Storage

The following reservoir sites should be protected through the comprehensive land-use planning process for possible future development or until alternative methods of meeting water needs have been developed:

(1) West Fork of the Millicoma River, site 223;

(2) South Fork of Coquille River at Eden Ridge, site 430;

(3) North Fork Coquille River, site 146A;

(4) Rock Creek at Rasler Creek, site 201;

(5) Catching Creek, site 101;

(6) Fourmile Creek, site 158;

(7) North Fork Floras Creek at Okietown, sit 435;

(8) North Fork Chetco River, site 239;

(9) Wheeler Creek, site 241;

(10) East Fork Winchuck River, site 243;

(11) Joe Ney Slough.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRB 24, f. 12-16-63; WRB f. 6-2-64; WRD 4, f. 5-6-77; WRD 6, f. 7-5-77; WRD 1-1979, f. & cert. ef. 2-1-79; WRD 6-1980, f. & cert. ef. 4-11-80; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 5-1984, f. & cert. ef. 10-30-84; Administrative Renumbering 1-1993, Renumbered from 690-080-0170; WRD 3-2012, f. & cert. ef. 12-12-12

690-517-0040

Out-of-Basin Appropriations

No out-of-basin diversion of South Coast Basin water shall be granted without the prior approval of, and following a public hearing by, the Water Resources Commission.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist.: WRB 24, f. 12-16-63; WRB f. 6-2-64; WRD 4, f. 5-6-77; WRD 6, f. 7-5-77; WRD 1-1979, f. & cert. ef. 2-1-79; WRD 6-1980, f. & cert. ef. 4-11-80; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 5-1984, f. & cert. ef. 10-30-84; Administrative Renumbering 1-1993, Renumbered from 690-080-0170; WRD 3-2012, f. & cert. ef. 12-12-12

DIVISION 518

MID-COAST BASIN PROGRAM

NOTE: The Mid-Coast Basin is delineated on State Water Resources Board Map 18.6, dated 1964, available from the agency.

690-518-0010

Classifications

(1) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the Mid-Coast Basin are classified for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife and fish life uses with preference given to human consumption and livestock consumption over any other beneficial uses, with the following exceptions:

(a) The waters of the following natural lakes of the Mid-Coast Basin are classified for utilization of water for domestic, livestock, and in-lake uses for recreation, wildlife, and fish life purposes: Devils, Triangle, Lily, Sutton, Mercer, Collard, Munsel, Cleawox, Carter, Lost, Elbow, Clear, Woahink, Siltcoos, Tahkenitch, and Threemile;

(b) The waters of Clear Lake are classified for municipal use in addition to the uses specified in subsection (a) of this section;

(c) The waters of the following streams and their tributaries are classified for utilization of water for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development and instream uses for recreation, wildlife, and fish life purposes:

(A) Schoolhouse Creek (Mouth in Township 8 South);

(B) Fogarty Creek;

(C) Deadhorse Creek;

(D) Canal Creek of Alsea Bay;

(E) Cummins Creek;

(F) Bob Creek;

(G) Tenmile Creek;

(H) Big Creek at Roosevelt Beach;

(I) Cape Creek at Heceta Head;

(J) Quarry Creek;

(K) Knowles Creek of Siuslaw River;

(L) Hadsall Creek of Siuslaw River;

(M) Woahink Creek;

(N) Siltcoos River;

(O) Tahkenitch Creek; and

(P) Threemile Creek.

(d) The waters of the following streams and their tributaries are classified for utilization of water for domestic, livestock, municipal, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development and instream uses for recreation, wildlife, and fish life purposes:

(A) Salmon River;

(B) Schooner Creek of Siletz Bay upstream from the intersection of Schooner Creek and the section line between Section 25, Township 7 South, Range 11 West, WM, and Section 30, Township 7 South, Range 10 West, WM;

(C) Drift Creek of Siletz Bay;

(D) Tributaries to Depoe Bay;

(E) Rocky Creek;

(F) Spencer Creek;

(G) Moolack Creek;

(H) Big Creek near Newport;

(I) Henderson Creek (Mouth in Township 11 South);

(J) Beaver Creek (Mouth in Township 12 South);

(K) Big Creek at San Marine;

(L) Vingie Creek;

(M) Starr Creek;

(N) Sutton Creek; and

(O) Munsel Creek.

(e) The waters of Olalla Creek and its tributaries are classified for human consumption, livestock consumption, industrial, and instream uses for recreation, wildlife, and fish life purposes;

(f) The waters of Schooner Creek and its tributaries downstream from the intersection of Schooner Creek and the section line between Section 25, Township 7 South, Range 11 West, WM, and Section 30, Township 7 South, Range 10 West, WM, are classified for domestic, livestock, municipal, irrigation and frost control not to exceed an additional total appropriation of 2.5 cfs, power development and instream uses for recreation, wildlife, and fish life purposes; and

(g) The waters of Thiel Creek are classified for domestic, livestock, municipal, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development, aesthetics and in-lake and instream uses for recreation, fish life and wildlife purposes.

(h) The waters of Little Creek, a tributary of the Pacific Ocean, and its tributaries located within Sections 22, 27, 28, 29, 32, and 33, Township 10 South, Range 11 West, W.M., are withdrawn from further appropriation by order of the State Engineer dated June 7, 1960 (Special Order Vol 10, Pg 397) except for municipal use by Agate Beach Water District;

(i) The waters of Mill Creek, a tributary of Yaquina River, and its tributaries located within Sections 22, 23, 26, 27, 28, 32, 33, 34 and 35, Township 11 South, Range 10 West, W.M., are withdrawn from further appropriation by order of the State Engineer dated December 7, 1959 (Special Order Vol 10, Pg 246); and

(j) The waters of Rock Creek (also known as Little Rock Creek or South Fork Rock Creek), a tributary of the Siletz River, and its tributaries above the north line of the SW 1/4 of the NE 1/4, Section 7, Township 10 South, Range 8 West, W.M., during the months of July, August, and September are withdrawn from further appropriation of direct flow and for storage by order of the State Engineer dated July 22, 1960 (Special Order Vol 10, Pg 459).

(2) Structures or works for 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 works, which do not give cognizance to the multiple-purpose concept are further declared to be prejudicial to the public interest.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist: WRB 36, f. 7-27-66; WRB 59, f. 4-15-74; WRB 62, f. 3-26-75; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 4-1984, f. & cert. ef. 10-30-84; WRD 5-1987, f. & cert. ef. 5-20-87; WRD 20-1990, f. & cert. ef. 12-14-90, Renumbered from 690-080-0180; WRD 3-2012, f. & cert. ef. 12-12-12

690-518-0020

Reservations

(1) In addition to the uses specified in subsection (1)(a) of OAR 690-518-0010, 1.5 cfs of the water of Woahink Lake are reserved for municipal purposes and 0.75 cfs for public park purposes.

(2) The waters of the following streams are reserved for municipal purposes in the amounts specified:

(a) Alsea River below stream mile 25 — 5 cfs.

(b) Yachats River below stream mile 5 — 1 cfs.

(3) The waters of the following streams are reserved for multipurpose storage for future economic development as allowed under ORS 537.356 with a priority date of May 5, 2006:

(a) A reservation of 374 acre-feet of unappropriated water in Rock Creek, tributary to Devil's Lake,

(b) A reservation of 1,250 acre-feet of unappropriated water from Treat River, tributary to Salmon River,

(c) A reservation of 1,350 acre-feet of unappropriated water from an unnamed stream (locally referred to as "Side Creek"), tributary to Devil's Lake, for future application exclusively by the City of Lincoln City.

Stat. Auth.: ORS 536 & 537

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

Hist: WRB 36, f. 7-27-66; WRB 59, f. 4-15-74; WRB 62, f. 3-26-75; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 4-1984, f. & cert. ef. 10-30-84; WRD 5-1987, f. & cert. ef. 5-20-87; WRD 20-1990, f. & cert. ef. 12-14-90, Renumbered from 690-080-0180; WRD 1-2007, f. & cert. ef. 1-5-07

690-518-0030

Minimum Perennial Streamflows

(1) For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life and recreation, no appropriations of water except for reservations in OAR 690-518-0020, human consumption, livestock consumption, or waters legally released from storage shall be granted for the waters of the following streams and their tributaries for flows below the amounts specified in Table 1.

(2)(a) To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriation of water shall be granted for waters of the streams and tributaries listed in Table 2 when flows are below the specified levels. This limitation shall not apply to:

(A) Human and livestock consumption; and

(B) Water legally released from storage.

(b) Attainment of the specified flow levels during some portions of the year will require development of water storage or implementation of other measures to augment flows.

(3) The minimum perennial streamflows established by the July 12, 1966 Mid-Coast Basin Program shall remain in effect over appropriations issued from July 12, 1966 to March 26, 1974.

[ED. NOTE: Tables referenced are available from the agency.]

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist: WRB 36, f. 7-27-66; WRB 59, f. 4-15-74; WRB 62, f. 3-26-75; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 4-1984, f. & cert. ef. 10-30-84; WRD 5-1987, f. & cert. ef. 5-20-87; WRD 20-1990, f. & cert. ef. 12-14-90, Renumbered from 690-080-0180; WRD 3-2012, f. & cert. ef. 12-12-12

690-518-0050

Out-of-Basin Appropriations

To support present and proposed Mid-Coast Basin water resource development, no out-of-basin appropriation of the waters of the Mid-Coast Basin shall be granted without prior approval of, and following a public hearing by, the Water Resources Commission.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist: WRB 36, f. 7-27-66; WRB 59, f. 4-15-74; WRB 62, f. 3-26-75; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 4-1984, f. & cert. ef. 10-30-84; WRD 5-1987, f. & cert. ef. 5-20-87; WRD 20-1990, f. & cert. ef. 12-14-90, Renumbered from 690-080-0180; WRD 3-2012, f. & cert. ef. 12-12-12

690-518-0060

Water Quality

Rights to use of water granted by any state agency in accordance with this water use program shall be issued only on the condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

Stat. Auth.: ORS 536 & 537

Stats. Implemented:

Hist: WRB 36, f. 7-27-66; WRB 59, f. 4-15-74; WRB 62, f. 3-26-75; WRD 4-1981, f. & cert. ef. 5-28-81; WRD 4-1984, f. & cert. ef. 10-30-84; WRD 5-1987, f. & cert. ef. 5-20-87; WRD 20-1990, f. & cert. ef. 12-14-90, Renumbered from 690-080-0180

DIVISION 501

NORTH COAST BASIN PROGRAM

NOTE: The North Coast Basin is delineated on the agency Map 1.6, dated 1972.

690-501-0005

Classifications

(1) In accordance with ORS 536.220, 536.300, 536.310, and 536.340, the waters of the North Coast Basin are classified for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life, with the following exceptions:

(a) The waters of the natural lakes of the North Coast Basin are classified for utilization of water for domestic, livestock, power development not to exceed 7-1/2 theoretical horsepower, and in-lake uses for recreation, wildlife, and fish life purposes;

(b) The attainment of the highest and best use of the waters of Clatskanie and Klaskanine Rivers and their tributaries, Lewis and Clark River and Tillasqua Creek (Big Creek), has been determined through legislative withdrawal by ORS 538.251 to be for the protection of fish life. ORS 538.260 states that 538.251 shall not affect any existing rights or prevent appropriation for domestic, stock, municipal, fish culture, esthetic, recreational, or public park purposes;

(c) The waters of the Columbia River creating a tidal influence in the mouths of the tributaries to the Columbia River within the Columbia Subbasin are classified for utilization of water for domestic, livestock, municipal, irrigation, industrial, recreation, wildlife, and fish life purposes;

(d) The waters of all streams tributary to Sand Lake are classified only for utilization for domestic, livestock, use in dairies, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, power development and instream use for recreation, fish life and wildlife purposes;

(e) The waters of Jetty Creek and its tributaries are classified for utilization of water for human consumption, livestock consumption, power development and instream uses for recreation, wildlife and fish life purposes. In addition, up to one cubic foot per second of the waters of Jetty Creek is classified for municipal use;

(f) The waters of Heitmiller Creek are classified for utilization of water for human consumption, livestock consumption, and instream uses for recreation, wildlife and fish life purposes;

(g) The waters of the following streams are classified for utilization of water for human consumption, livestock consumption, power development and instream uses for recreation, wildlife, and fish life purposes:

(A) Tillamook Subbasin:

(i) All streams tributary to Daley Lake;

(ii) All streams tributary to Netarts Bay;

(iii) Coleman Creek and its tributaries;

(iv) Vaughn Creek and its tributaries;

(v) Douhty Creek and its tributaries;

(vi) Patterson Creek and its tributaries;

(vii) Larson Creek and its tributaries;

(viii) All streams tributary to Lake Lytle.

(B) Nehalem Subbasin:

(i) Salmonberry River and its tributaries;

(ii) Rock Creek and its tributaries.

(C) Columbia Subbasin:

(i) Short Sand Creek and its tributaries;

(ii) Arch Cape Creek and its tributaries;

(iii) Cullaby Creek and its tributaries;

(iv) John Day River and its tributaries;

(v) Gnat Creek and its tributaries;

(vi) All tributaries to Westport Slough, except Plympton Creek. In addition to uses in subsection (g) of this section, permits may also be used to collect and divert polluted industrial site runoff, before entering OK Creek, for pollution abatement purposes. This use shall be allowed only on the condition that all applicable requirements of other agencies are met;

(vii) Tide Creek and its tributaries, except that water from the main stem Tide Creek from the falls near river mile 3 to the mouth may be used for gravel washing provided that such use shall not diminish the flow in Tide Creek below 2.5 cfs;

(viii) Goble Creek and its tributaries, except that surface water legally stored and released from storage may be used for any beneficial purpose. Diversion for storage shall be limited to the period December 1 to February 28.

(2) Structures or works for 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 works, which do not give cognizance to the multiple-purpose concept, are further declared to be prejudicial to the public interest.

Stat. Auth.: ORS 536.300, 536.340 & 537

Stats. Implemented:

Hist.: WRB 21, f. 11-8-62; WRB 27, f. 5-11-64; WRB 51, f. 5-14-73; WRD 5-1978, f. & cert. ef. 6-8-78; WRD 5-1981, f. & cert. ef. 6-19-81; WRD 5-1989, f. & cert. ef. 9-14-89; WRD 3-1991, f. & cert. ef. 3-14-91, Renumbered from 690-080-0010; WRD 3-2012, f. & cert. ef. 12-12-12

690-501-0010

Minimum Perennial Streamflows

For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for human consumption, livestock consumption, and waters legally released from storage shall be granted for the waters of the following streams and their tributaries for flows below the amounts specified in Table 1.

[ED. NOTE: Tables referenced are not included in rule text. Click [here](#) for PDF copy of table(s).]

Stat. Auth.: ORS 536.300, 536.340 & 537

Stats. Implemented:

Hist.: WRB 21, f. 11-8-62; WRB 27, f. 5-11-64; WRB 51, f. 5-14-73; WRD 5-1978, f. & cert. ef. 6-8-78; WRD 5-1981, f. & cert. ef. 6-19-81; WRD 5-1989, f. & cert. ef. 9-14-89; WRD 3-1991, f. & cert. ef. 3-14-91, Renumbered from 690-080-0010; WRD 3-2012, f. & cert. ef. 12-12-12

690-501-0030

Out-of-Basin Appropriations

To support present and proposed North Coast Basin water resource development, no out-of-basin appropriation of the waters of the North Coast Basin shall be granted without the prior approval of, and following a public hearing by, the Water Resources Commission.

Stat. Auth.: ORS 536.300, 536.340 & 537

Stats. Implemented:

Hist.: WRB 21, f. 11-8-62; WRB 27, f. 5-11-64; WRB 51, f. 5-14-73; WRD 5-1978, f. & cert. ef. 6-8-78; WRD 5-1981, f. & cert. ef. 6-19-81; WRD 5-1989, f. & cert. ef. 9-14-89; WRD 3-1991, f. & cert. ef. 3-14-91, Renumbered from 690-080-0010; WRD 3-2012, f. & cert. ef. 12-12-12

690-501-0040

Water Quality

Rights to use of water grant by any state agency in accordance with this water use program shall be issued only on the condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

Stat. Auth.: ORS 536.300, 536.340 & 537

Stats. Implemented:

Hist.: WRB 21, f. 11-8-62; WRB 27, f. 5-11-64; WRB 51, f. 5-14-73; WRD 5-1978, f. & cert. ef. 6-8-78; WRD 5-1981, f. & cert. ef. 6-19-81; WRD 5-1989, f. & cert. ef. 9-14-89; WRD 3-1991, f. & cert. ef. 3-14-91, Renumbered from 690-080-0010