WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 509
POWDER BASIN PROGRAM

690-509-0000
Classifications

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

(a) That 65,000 acre-feet annually of unappropriated water of Eagle Creek and its tributaries at or above stream mile 21 be classified for domestic, livestock, municipal, irrigation, recreation, wildlife, and fish life purposes.

(b) That 265,000 acre-feet annually of natural flows of Snake River water at or near stream mile 9 of Powder River (arm of Brownlee Reservoir) lying within Section 25, Township 9 South, Range 45 East, Willamette Meridian, be classified for domestic, livestock, municipal, irrigation and industrial purposes.

(c) That 87,000 acre-feet annually of natural flows of Snake River water at or near stream mile 327 of Snake River lying within Section 8, Township 14 South, Range 45 East, Willamette Meridian, be classified for domestic, livestock, municipal, irrigation, and industrial purposes.

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

(e) Water that is stored subject to the reservation of water under OAR 690-509-0110 through 0160 may be used for any beneficial purpose, and any beneficial use of the water stored shall be a classified use.

(2) Application for the use of these specified waters of the Powder Basin shall not be accepted by any state agency for any other use and the granting of applications for such other use is declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(3) 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 cognizance to the multiple-purpose concept.

(4) Notwithstanding a determination water is unavailable for appropriation, permits for domestic and livestock purposes from the Burnt River and tributaries may be issued to water-use applicants:

(a) In amounts not to exceed a cumulative total of 2.5 cubic feet per second of live-flow, and

(b) Provided water-use applicants cannot acquire access to a viable source of water supplied by a community water system, irrigation district, or other water supply organization.

(5) Applications filed prior to March 8, 1996, shall be processed under the classification in effect at the time of the application.

Stat. Auth.: ORS 536
Stats. Implemented: ORS 536.220 & ORS 536.310
Hist.: WRB 43, f. 7-10-70; WRD 1-1981, f. & cert. ef. 4-20-81; Administrative Renumbering 9-1993, Renumbered from 690-080-0090; WRD 4-1996, f. & cert. ef. 3-15-96; WRD 3-2000, f. & cert. ef. 5-26-00

690-509-0010
Out-of-Basin Appropriations

To support present and proposed Powder Basin resource developments no out-of-basin or out-of-state appropriations of water shall be made or granted by any state agency or public corporation of the state for the waters of Pine Creek, Eagle Creek, Powder River and Burnt River or their tributaries.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 43, f. 7-10-70; WRD 1-1981, f. & cert. ef. 4-20-81; Administrative Renumbering 9-1993, Renumbered from 690-080-0090

690-509-0030
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 other beneficial uses of water.

Stat. Auth.: ORS 536 & ORS 537
Stats. Implemented:
Hist.: WRB 43, f. 7-10-70; WRD 1-1981, f. & cert. ef. 4-20-81; Administrative Renumbering 9-1993, Renumbered from 690-080-0090

690-509-0100
Reservation Applications and Process

(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:

(a) Until the Department has received applications for reservoir permits for the full quantity of reserved water under OAR 690-509-0110 through 0130, 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.

(b) If the Department has not received applications for multipurpose reservoir permits for the full quantity of reserved water under OAR 690-509-0140 through 0160 by May 26, 2005, the Department of Agriculture shall provide the Commission with a progress report on development of the reservations. Progress reports shall include information on the continued need for the reservations and the quantities of water reserved. The Department of Agriculture shall continue to provide progress reports at five year intervals, while these rules are in effect unless the Department receives applications for multipurpose reservoir permits for the full quantity of reserved water.

(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, 2020, 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.

Stat. Authority: ORS Ch. 536 and 537
Stats. Implemented: ORS 536.310, 537.249, 537.356 & 537.358
Hist.: WRD 4-1996, f. & cert. ef. 3-15-96; WRD 3-2000, f. & cert. ef. 5-26-00

Note: These rules were filed with the Office of the Secretary of State and took effect on March 1, 2016.The rules are subject to non-substantive modifications such as renumbering and correction of typographical errors pursuant to ORS 183.360 (2)(a) when published by the Secretary of State.

690-509-0110
South Fork Burnt River Reservation

Seventeen thousand eight hundred (17,800) acre-feet of unappropriated water of the South Fork Burnt River and tributaries upstream of Unity reservoir are [is] reserved for storage by the Burnt River Irrigation District in multipurpose reservoirs to be constructed in the future. The priority date of the reservation is June 5, 1992. In accordance with ORS 537.249, a reservoir permit authorizing the storing of the water reserved under this rule shall be granted precedence over instream water rights in the Burnt River subbasin.

Stat. Auth.: ORS 537
Stats. Implemented: ORS 537.249 & ORS 537.356
Hist.: WRD 4-1996, f. & cert. ef. 3-15-96; WRD 3-2000, f. & cert. ef. 5-26-00

690-509-0120
North Fork Burnt River Reservation

Six thousand five hundred (6,500) acre-feet of unappropriated water of the North Fork Burnt River and tributaries upstream of Unity Reservoir are reserved for storage in multipurpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537
Stats. Implemented: ORS 537.249 & ORS 537.356
Hist.: WRD 4-1996, f. & cert. ef. 3-15-96; WRD 3-2000, f. & cert. ef. 5-26-00

690-509-0130
Burnt River Subbasin Reservation

Two thousand (2,000) acre-feet of unappropriated water are reserved for storage in reservoirs to be constructed on the Burnt River and tributaries. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 537
Stats. Implemented: ORS 537.249 & ORS 537.356
Hist.: WRD 4-1996, f. & cert. ef. 3-15-96; WRD 3-2000, f. & cert. ef. 5-26-00

690-509-0140
Pine Creek Subbasin Reservation

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 multi purpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 536.025, ORS 536.027 & ORS 536.300
Stats. Implemented: ORS 536.310, ORS 537.249 & ORS 537.356

Hist.: WRD 3-2000, f. & cert.ef. 5-26-00

690-509-0150
Eagle Creek Subbasin Reservation

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 multi purpose reservoirs to be constructed in the future. The priority date of the reservation is November 6, 1992.

Stat. Auth.: ORS 536.025, ORS 536.027 & ORS 536.300
Stats. Implemented: ORS 536.310, ORS 537.249 & ORS 537.356
Hist.: WRD 3-2000, f. & cert.ef. 5-26-00
690-509-0160
Powder River Subbasin Reservation

Unappropriated water is reserved for multi purpose 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.

Stat. Auth.: ORS 536.025, ORS 536.027 & ORS 536.300
Stats. Implemented: ORS 536.310, ORS 537.249 & ORS 537.356
Hist.: WRD 3-2000, f. & cert.ef. 5-26-00