Secretary of State
Certificate and Order for Filing

TEMPORARY ADMINISTRATIVE RULES

A Statement of Need and Justification accompanies this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on 03/06/2014 by the

Water Resources Department	690
Agency and Division	Administrative Rules Chapter Number
Racquel Rancier	(503) 986-0828
Rules Coordinator	Telephone
725 Summer St. NE, Salem, OR 97301	
Address	

To become effective 04/01/2014 through 09/27/2014.

WRD 1-2014(T)

RULE CAPTION

Temporary Rule Granting Preference to Stock Watering and Human Consumption Water Use in Klamath County

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

ADOPT:
690-022-0020, 690-022-0025, 690-022-0030

AMEND:

SUSPEND:

Statutory Authority:
ORS 536.025; ORS 536.027; ORS 536.750

Other Authority:
OAR 690-019-0070

Statutes Implemented:
ORS 536.750

RULE SUMMARY

Oregon Governor Kitzhaber declared a drought in Klamath County under Executive Order No. 14-01 on February 13, 2014. ORS 536.750 authorizes the Oregon Water Resources Commission, pursuant to a gubernatorial declaration of drought, to grant preference of water use for human consumption and stock watering over other uses of water regardless of priority date. Without the preference, the use of water for human consumption and stock watering would be subject to regulation, and as a result, surface water that would otherwise be used to meet these needs would not be available. For some water users, there are no readily available alternative sources of water for either stock watering or human consumption. These rules propose to grant a preference for the use of water for stock watering and human consumption in Klamath County for a period of 180 days, or for the duration of the declared drought, whichever is shorter.

FILED
3-25-14 8:54 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Racquel Rancier	racquel.r.rancier@state.or.us
Rules Coordinator Name	Email Address

Secretary of State

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Water Resources Department | 690

Agency and Division | Administrative Rules Chapter Number

Temporary Rule Granting Preference to Stock Watering and Human Consumption Water Use in Klamath County

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Preference of Water Use for Human Consumption and Stock Watering in Klamath County

Statutory Authority:

ORS 536.025; ORS 536.027; ORS 536.750

Other Authority:

OAR 690-019-0070

Statutes Implemented:

ORS 536.750

Need for the Temporary Rule(s):

On February 13, the Governor issued Executive Order No. 14-01, declaring a state of drought emergency in Klamath County. The combination of drought conditions and regulation of water in favor of senior water right holders will preclude junior water right holders from using water for stock watering or human consumption. ORS 536.750 provides specific statutory authority for the Commission to grant a preference for these uses when, as is presently the case in Klamath County, the Governor has declared the existence of a severe, continuing drought.

The temporary rules are needed effective April 1, to allow the continued use of water for stock watering and human consumption by junior water right holders in Klamath County who would otherwise be regulated off beginning in April, in order to meet the call of senior surface water rights in the Klamath Basin.

The temporary rules allow holders of rights allowing appropriation of surface water for stock watering or human consumption under a junior priority date to continue using water for these purposes notwithstanding regulation of surface water in favor of senior water rights. Failure of the Commission to timely act will result in serious prejudice to the junior water users who would not, but for this temporary rule, have access to water for human consumption or stock watering uses.

Documents Relied Upon, and where they are available:

The Commission has considered Oregon Governor Kitzhaber's Executive Order No 14-01 in considering the need for these temporary rules. Executive Order No. 14-01 is available for public inspection at http://www.oregon.gov/gov/Pages/exec_orders.aspx.

Justification of Temporary Rule(s):

The Oregon Water Resources Commission finds that the failure to act promptly in adopting the temporary rules will result in serious prejudice to junior water right holders for human consumption and stock water in the Klamath Basin who would not otherwise be able to exercise their rights. Specifically, the combination of the declared drought and calls for water by senior water right holders in the Klamath Basin would preclude junior water right holders for stock watering and human consumption from accessing surface water they would otherwise be able to access. A lack of water for human consumption and stock watering uses would have significant negative health and welfare consequences for the affected junior water users.

Racquel Rancier (Printed Name) | racquel.r.rancier@state.or.us (Email Address)

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3-25-14 8:54 AM
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Authorization Page

Generated on March 24, 2014 5:26PM

TEMPORARY ADMINISTRATIVE RULES

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Adopted on	
04/01/2014 thru 09/27/2014	
Effective dates	

RULE CAPTION

Temporary Rule Granting Preference to Stock Watering and Human Consumption Water Use in Klamath County

Not more than 15 words

RULEMAKING ACTION

ADOPT: 690-022-0020,690-022-0025,690-022-0030

AMEND:

SUSPEND:

Stat. Auth.: ORS 536.025; ORS 536.027; ORS 536.750

Other Auth.: OAR 690-019-0070

Stats. Implemented: ORS 536.750

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STATEMENT OF NEED AND JUSTIFICATION

Preference of Water Use for Human Consumption and Stock Watering in Klamath County

In the Matter of

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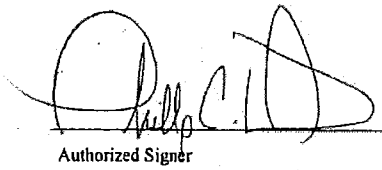
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Need for the Temporary Rule(s)

The Oregon Water Resources Commission finds that the failure to act promptly in adopting the temporary rules will result in serious prejudice to junior water right holders for human consumption and stock water in the Klamath Basin who would not otherwise be able to exercise their rights. Specifically, the combination of the declared drought and calls for water by senior water right holders in the Klamath Basin would preclude junior water right holders for stock watering and human consumption from accessing surface water they would otherwise be able to access. A lack of water for human consumption and stock watering uses would have significant negative health and welfare consequences for the affected junior water users.

Justification of Temporary Rules



Authorized Signer	Printed Name	Date
	PHILLIP C. WARD	3/25/2014

Authorization Page replaces the ink signature on paper filings. Have your authorized signer sign and date, then scan and attach it to your filing. You must complete this step before submitting your Permanent and Temporary filings.

DIVISION 22
EMERGENCY WATER PROVISIONS – KLAMATH COUNTY

690-022-0020
Purpose and Statutory Authority

(1) The purpose of these rules is to implement ORS 536.750(1)(c), which authorizes the Commission, pursuant to a gubernatorial declaration that a severe, continuing drought exists, to grant a temporary preference to water rights for human consumption or stock watering use over other water uses regardless of priority date. These rules address an immediate threat to the health and welfare of the people of Oregon that would otherwise occur if regulation of senior water rights in Klamath County curtailed or prohibited use of surface water for human consumption and stock watering as defined in these rules.

(2) Executive Order No. 14 – 01: Determination of a State of Drought Emergency in Harney, Klamath, Lake and Malheur Counties Due to Drought and Low Water Conditions, was signed by Governor John A. Kitzhaber, M.D., on February 13, 2014.

(3) These rules become effective on April 1, 2014 and will remain in effect for 180 days from the effective date or for the term of Oregon Governor Kitzhaber's Executive Order No. 14 – 01, whichever is shorter.

690-022-0025
Definitions

The words and phrases used in division 22 have the following meaning:

(1) "Commission" means the Oregon Water Resources Commission.

(2) "Department" means the Oregon Water Resources Department.

(3) "Human Consumption" means the use of water for the purposes of drinking, cooking, and sanitation.

(4) "Stock Watering Use" means the use of water for consumption by domesticated animals and wild animals held in captivity as pets or for profit.

690-022-0030
Applicability and Preference

Notwithstanding any provision of Oregon Administrative Rules Division 690 to the contrary:

(1) These rules apply only to the diversion or use of surface water within Klamath County.

(2) Uses of surface water for human consumption and stock watering, to the extent authorized under a water right certificate, permit, decree, or findings of fact and order of determination issued in an adjudication subject to ORS Chapter 539, are granted a preference over all other water uses regardless of the priority date of the underlying water right.

(3) The Department will regulate water rights in Klamath County in accordance with the preference for water rights for human consumption and stock watering use granted in 690-022-0030(2) of these rules.

(4) Political subdivisions exercising the human consumption or stock water preferences established in this rule shall assure curtailment of water uses unrelated to the preference consistent with this rule.