

DRAFT NOTICE OF PROPOSED RULEMAKING

OREGON ADMINISTRATIVE RULES CHAPTER 690 DIVISIONS 8, 9, 25, 300, 400, 410

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The Oregon Water Resources Department (OWRD) extended invitations to several Oregon non-profit organizations whose missions focus on racial justice and equity in the context of water, as well as broader environmental, economic, and social issues. OWRD asked these organizations for additional recommendations and extended more RAC invitations. OWRD also invited all nine federally recognized Tribes to serve on the RAC. The final RAC composition included members from Oregon's Tribal communities, environmental and social justice organizations, local governments, small businesses, farmers, ranchers, economists, climatologists, consultants, and water rights experts.

The RAC discussed the issue of racial equity in the context of this rulemaking, noting that data were lacking to quantify impacts adequately, but agreed that a qualitative assessment was feasible.

RAC members also offered the following comments:

- Because everyone relies on food and clothing, to the extent the rulemaking impacts agriculture, everyone should be impacted equitably
- Some Tribes may benefit from the rulemaking due to the senior nature of their water rights
- If new water rights become more difficult to acquire, some local governments may have more difficulty providing new affordable housing which may adversely impact historically disadvantaged communities

The proposed rule changes will protect existing water rights holders; however, the rules update the criteria for issuing new groundwater rights and will impact future water rights applicants. Also, because the proposed rule changes will result in more sustainable water resources in terms of both groundwater and surface water, non-consumptive water users (e.g., boaters, fishers, swimmers, and other commercial and recreational users relying on healthy instream flows and lake levels) may benefit.

Because the proposed rule changes are likely to result in the issuance of fewer new water rights, existing racial inequities would likely be exacerbated due to prior appropriation laws. Future water rights may be available through purchase; however, it is expected that as the cost of acquiring new rights rises, those costs will be passed on to water users, consumers and ratepayers, while economic benefits will continue to accrue for existing water rights holders.

The proposed rule changes also will result in greater protection of surface water from further over appropriation as well as help alleviate groundwater level declines. Anyone holding or otherwise relying on instream water rights and beneficial uses, including fishing, wildlife habitat, culture, recreation, water quality, and drought mitigation, should benefit equitably from the rulemaking.

Further public comments on this rulemaking and its impact on racial equity in the state is encouraged throughout the posted public comment period.

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