

KEY RULES IMPACTING WATER USE IN THE UPPER GRANDE RONDE BASIN

To understand where and when water can be used for consumptive or non-consumptive uses, it is important to understand not just the hydrology of a basin, but also the laws and subsequent rules that govern its use. In Oregon, there are statewide as well as basin-specific rules that are important to understand when characterizing water resources in a basin. Below, we describe the major Oregon Administrative Rules (OAR) overseen by the Oregon Water Resources Department regarding when, where, and for what use waters can receive a water right. This list is not exhaustive as there may be rules related to specific rivers or sub-basins, and there may be other Federal or State laws overseen by other agencies that impacts water use. That said, understanding these rules is the first step to knowing how and when water may be used in the future within the basin.

AUTHORIZED USES OF WATER: GRANDE RONDE BASIN PROGRAM IN UNION COUNTY

The Water Resources Commission is responsible for the establishment of policy and procedures for the use and control of the state's water resources. In executing this responsibility, the Commission develops, adopts and periodically modifies programs for the state's major drainage basins.

Basin programs are administrative rules which establish water management policies and objectives and which govern the appropriation and use of the surface and ground water within each of the respective basins. The Grande Ronde Basin Program is found in Division 508 of the Oregon Administrative Rules. The rules classify surface and ground waters according to the uses which are permitted, may establish preferences among uses, may withdraw surface and groundwaters from further appropriation, may reserve waters for specified future uses, and may establish minimum perennial streamflows. These rules are in addition to rules with statewide applicability which govern the allocation and use of water. In many cases, including for the Grande Ronde, the Basin Program details the process for accessing and storing reserved water (OAR 690-508-0100).

General Classifications for use of water:

- (1) Stored water may be used for any beneficial purpose.
- (2) The storage of up to 900 acre-feet of water for domestic or livestock purposes authorized under water rights with priority dates after November 6, 1992, shall be exempt from regulation for storage of reserved water.

Subbasin	*Classifications – Allowed Beneficial Uses	Reservations for Multi-Purpose Storage Priority Date November 6, 1992
Upper Grande Ronde (Upstream of La Grande)	domestic, livestock, municipal, irrigation, flow augmentation, commercial, agriculture, **power development, ***industrial, ***mining, recreation, wildlife, and fish life uses	14,900 acre-feet of Meadow Creek and tributaries; and 12,000 acre-feet of the Grande Ronde River and tributaries, including Fly Creek and tributaries, upstream of river mile 184.
Middle Grande Ronde (Catherine Creek and Valley down to Elgin)	domestic, livestock, municipal, irrigation, flow augmentation, commercial, agriculture, **power development, ***industrial, ***mining, recreation, wildlife and fish life purposes	9,000 acre-feet of Catherine Creek and tributaries above Ames Creek

*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.

**Power Development: Water rights acquired for hydroelectric power purposes utilizing the waters of the Upper Grande Ronde Basin shall be subordinate in priority to future upstream beneficial uses of water except for hydroelectric power.

***Water Quality: Rights to use of water for industrial or mining purposes 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

Stats. Implemented: ORS 536.220 & 536.310

IRRIGATION SEASON: DIVISION 250 AND DECREES

Statewide, OAR 690-0250 sets rules for how OWRD should distribute water, especially providing guidance around regulatory activities. Within this rule (OAR 690-250-0070), a statewide, baseline irrigation season is established. This means that if no other pertinent decrees, permits, certificates, orders, or basin programs set an irrigation season, the default season for un-adjudicated areas is March 1 through October 31. For adjudicated basins (those with a decree), the irrigation season is typically set through the decree.

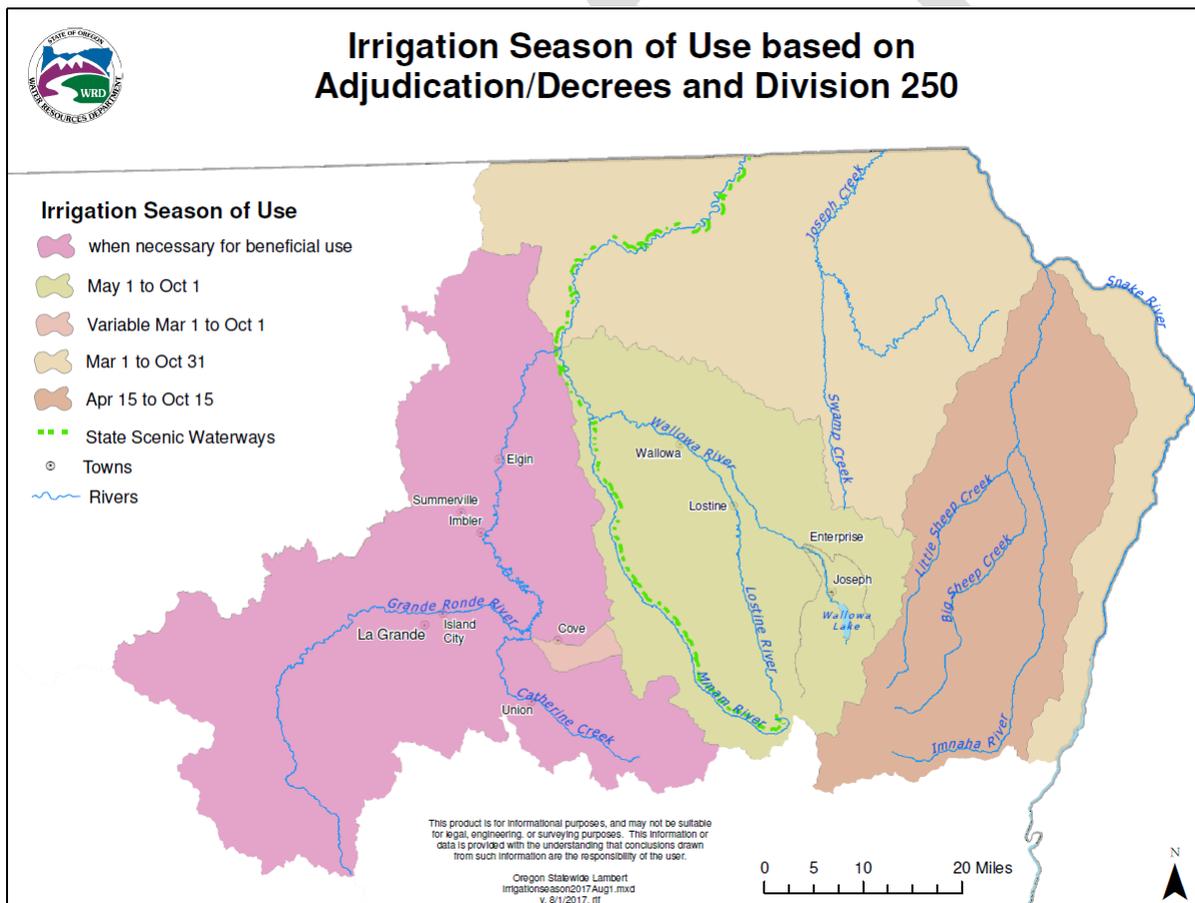


Figure 1. Map of likely irrigation season based on Division 250, Decrees, and Division 33 rules. Note that other laws and rules may impact the results for any specific water right activity.

SCENIC WATERWAYS

The Oregon Scenic Waterways System (ORS 390.805 to 390.925) protects river sections, and Waldo Lake, that possess outstanding scenic, fish, wildlife, geological, botanical, historic, archaeologic, and outdoor recreation values of present and future benefit to the public. The selected rivers, and Waldo Lake, or sections thereof are to be preserved in a free-flowing condition to protect and preserve the natural setting and water quality of such rivers and fulfill other conservation purposes. This law and policy, among other things, impact how much water can be diverted within or above the scenic waterway, either from the river itself or from hydraulically connected groundwater. Only water rights issued after the date of scenic waterway designation are affected or restricted by scenic waterway flows.

There exist three designated State scenic waterways in the greater Grande Ronde Basin, with one having some effect on water use in the Upper Grande Ronde planning area: *the Grande Ronde River from its confluence with the Wallowa River downstream to the Oregon-Washington border*. Scenic waterway flows impact new water rights in two ways. Scenic waterway flows are to be considered before additional water is allocated within or above the Scenic Waterway (Table 1; also see Figure 1). Scenic Waterway Flows are not treated as an instream water right – in other words they are not given a priority date and regulated for in the same way as another water right. That said, they may be placed as a permit condition on a new permit.

TABLE 1. SCENIC WATERWAY FLOWS FOR THE GRANDE RONDE RIVER FROM IT ITS CONFLUENCE WITH THE WALLOWA RIVER DOWNSTREAM TO THE OREGON-WASHINGTON BORDER.

Month	Scenic Waterway Flow (cfs)
January	800
February	800
March	2000
April	5000
May	5000
June	5000
July	1500
August	800
September	800
October	800
November	1200
December	800

TIMING OF APPROPRIATION OF DIRECT STREAMFLOW: DIVISION 33

OAR Chapter 690, Division 33, establishes additional procedures and standards to aid the Water Resources Department in determining whether a proposed new water use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species. Division 33 rules which implement statewide public interest reviews for all new water rights, apply to water use permit applications filed after July 17, 1992, for which no permit has been granted or on which no contested case has been ordered, upstream from Bonneville Dam in the Columbia / Snake Basin including the Grande Ronde Basin.

In order to be consistent with the Columbia River Basin Fish and Wildlife Program flow management objectives adopted by the Northwest Power Planning Council in February, 1994, appropriation of direct streamflow or of hydraulically connected groundwater with the potential for substantial interference is

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prohibited during the time period April 15 to September 30. If a proposed use is not consistent with the Fish and Wildlife Program, the applicant may propose mitigation to the ODFW Director in accordance with the ODFW rules regarding Implementation of Department Habitat Mitigation Recommendations, OAR 635-415-0025 adopted April 21, 2000 and effective May 1, 2000.

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