

Rulemaking Petition to Designate Waldo Lake an Outstanding Resource Water

Water Quality Standards and Assessment

July 18, 2019, EQC meeting
Enterprise, Oregon

Outline

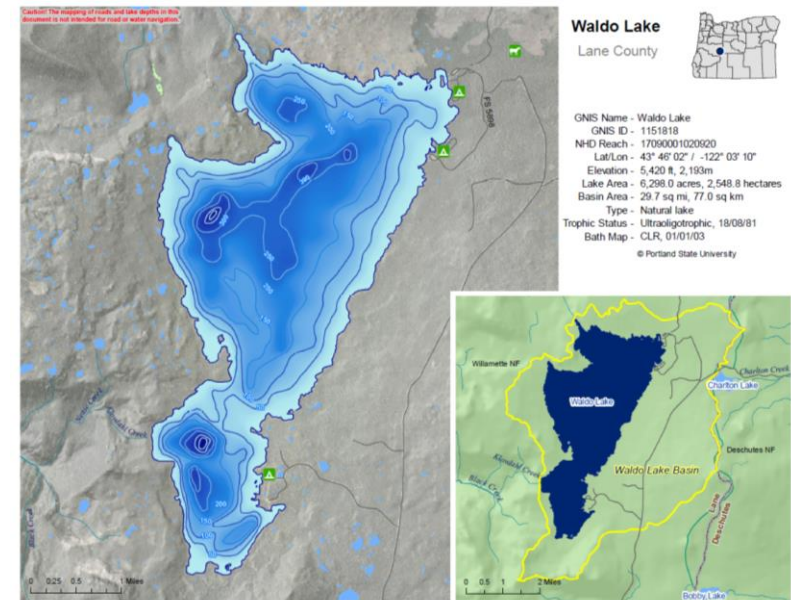
- Rulemaking petition request for Waldo Lake and DEQ recommendation
- Background on Outstanding Resource Waters and petitions
- Petition evaluation
- Summary of public comment
- Questions and discussion
- Proposed EQC action

Petition Request

- Submitted by Northwest Environmental Defense Center on behalf of:
 - NEDC, Sierra Club, Oregon Environmental Council, Oregon Wild, Cascadia Wildlands, Center for Biological Diversity
- Requests rulemaking and proposed rule amendments to:
 - Designate Waldo Lake and its associated wetlands as Outstanding Resource Waters
 - Establish policies to protect current water quality and ecological integrity of Waldo Lake

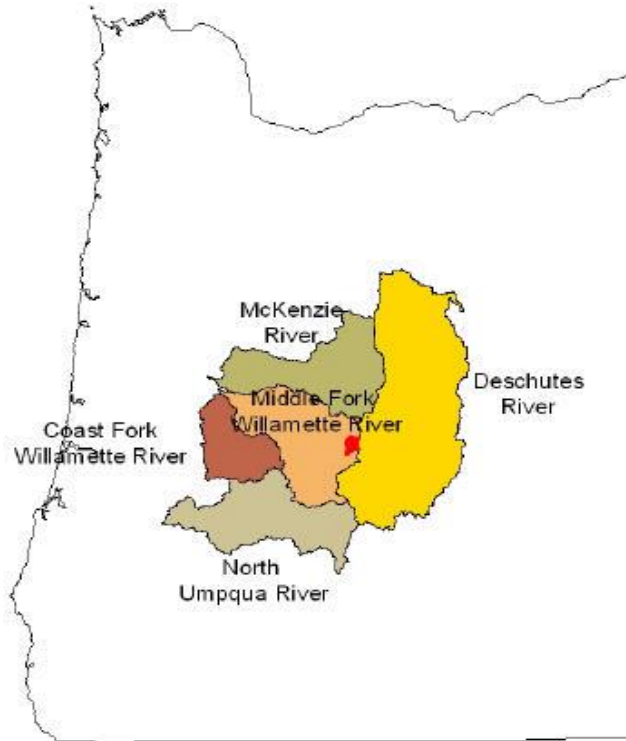
Proposed Protections

- Prohibit new NPDES discharges.
- Prohibit activities that would degrade the existing water quality and ecological values.



Map courtesy Center for Lakes and Reservoirs, Portland State University

Location of Waldo Lake



DEQ Recommendation

- Commission options for a petition:
 - Direct DEQ to initiate rulemaking proceedings based on the petition
 - Deny petition
 - Deny and direct DEQ to take other action
- *DEQ recommends that the commission direct DEQ to initiate rulemaking as requested by the petition.*

Outstanding Resource Water Policy

- Antidegradation policy :
 - 3 classes of waters: impaired, high quality and **outstanding resource waters**
 - “Where high quality waters constitute an outstanding state resource, existing water quality must be maintained & protected.”



Photo courtesy of Lesley Merrick, DEQ

ORW Policy

- Water quality values to be protected
- Allowable activities
 - No activities that lower established water quality
- Short term exceptions



Photo courtesy of Lesley Merrick, DEQ

Petition Process

- Any person can submit petition to adopt, amend or repeal a rule
- The petition must:
 - Clearly show the proposed revisions;
 - Provide supporting facts and arguments; and
 - Address several considerations listed in the rule.
- The commission has 90 days to act on the petition
- DEQ must invite public comment

Waldo Lake ORW Petition Evaluation

- Meets regulatory requirements:
 - Information about the petitioner
 - Proposed rule amendments clearly indicated
 - Information supporting proposed rule amendments
 - Comments on required considerations
- Proposed rule amendments are consistent with ORW policy

Supporting Information – Water Quality

- Clarity
 - Ultra-oligotrophic
 - 125' on average
- Small watershed
 - Long replacement time
 - Susceptible to pollution
- Similar to distilled water



Photo courtesy of Lesley Merrick , DEQ

Supporting Information - Recreation

- Kayaking, fishing, hiking, swimming, camping, mountain biking, horseback riding
- Source of N. Fork of Middle Fork Willamette River (Wild and Scenic)



Photo courtesy of Lesley Merrick, DEQ

Supporting Information – Ecological Value

- Leafy liverwort
- Amphibians
- Upland habitat for spotted owls, pine martens, Pacific fisher



Northwest Salamander

Supporting Information - Current protections

- Forest Service management goals and objectives
 - Wilderness and Roadless Rule
 - Non-degradation management policy
 - Recreation
- Gas-powered motor and float plane bans
- No fish stocking
- State Scenic Waterways Act

Considerations - Need for Existing Rule

- Adds to, does not change existing rule language
- Proposed amendments:
 - Implement existing ORW rule
 - Fulfill state responsibilities to designate waters that constitute outstanding state resources as ORWs

Other Considerations

- Complexity?
 - Proposed rule is not complex
 - Implementation will not be complex
- Duplication or conflict with other regulation?
 - ORW designation is consistent with and complements Forest Service management goals
 - Adds clear, enforceable water quality protection policy

Public Comment

- 2,155 comments from 1,945 individual and five organizations support proceeding with rulemaking
- No comments requested denial of petition or suggested an option that achieves the goal of the rule while reducing business impacts

Recommendation

- DEQ finds that Waldo Lake and its wetlands qualify as Outstanding Resource Waters based on their water quality, ecological, and recreational values.
- DEQ recommends that the commission direct DEQ to initiate rulemaking to designate Waldo Lake and its associated wetlands as Outstanding Resource Waters.