

# **Illinois River and Rough and Ready Creek Outstanding Resource Water Rulemaking Draft Fiscal Impact Statement**

## **Statement of fiscal and economic impact**

### **Fiscal and economic impact**

#### **Executive Summary**

The proposed rules would preserve benefits to businesses relying on revenue from recreational users in the Illinois River and Rough and Ready Creek and their watersheds by ensuring the waters are protected for continued recreation into the future. Overall, tourism contributes \$155 million annually to Josephine County, supporting 2,230 jobs. (Visit Grants Pass, 2023).

ORW rules protect the current water quality at the time the rules become effective. Commercial forest harvesting that may occur in the two watersheds can continue without impacting water quality as long as harvest rates do not increase and Forest Practice Act rules are followed. Moreover, these watersheds are included in the Rogue River Temperature TMDL that is currently being updated. This TMDL includes load allocations for forested areas that, as they are implemented through improvements in forest harvest practices, will improve water quality in the watershed. As these are already required through the TMDL irrespective of the ORW designation, the proposed rules will not have a fiscal impact on any industrial or commercial forest harvesting.

Under the proposed rules, DEQ cannot: 1. issue a new National Pollutant Discharge Elimination System permit or expand an existing NPDES permit to discharge wastewater to the ORWs; or 2. issue or expand an NPDES permit upstream of the ORWs if the discharge will result in lowering of water quality in the ORWs. DEQ can issue a Water Pollution Control Facility permit that does not allow a direct or indirect discharge to surface waters. These requirements may increase compliance costs for facilities wishing to operate in the watershed if such measures are not already required under existing regulatory requirements.

The proposed rules may impact residents of the City of Cave Junction. The City's wastewater treatment plant has a NPDES permit to discharge into the Illinois River approximately five miles upstream of the proposed ORW designation. At some point in the future, there may be a need to increase the design flow of the plant to accommodate population growth. When Cave Junction requests an increased design flow, DEQ will determine if the discharge will lower the water quality of the Illinois River where it is designated as an ORW. As there are five miles between the discharge and the ORW designation, and many other considerations besides the ORW, it's

possible that future expansion will not affect the water quality in the ORWs. However, if a future plant expansion would degrade water quality in the ORW, alternative treatment options may be required with additional cost to Cave Junction rate payers.

## **Statement of cost of compliance**

### **State agencies**

#### **DEQ**

There are few direct impacts to DEQ. The proposed rules prevent new or increased wastewater discharges or regulated activities that would degrade the water quality of the Illinois River and Rough and Ready Creek from their current condition, other than construction projects with a short-term impact, which already require permits. Therefore, there should be no need to develop new permits, 401 certifications, or total maximum daily loads for these waterbodies. To the extent that Cave Junction plans for any expansion of its wastewater treatment system in the future, DEQ permitting staff will need to ensure that the expansion will not degrade water quality in waters proposed for ORW designation. The analysis needed to do so is the same or similar as what is required in any permit as part of antidegradation analysis. As a result, DEQ expects that the analysis will require little to no additional staff time.

DEQ also considers ORW designations as part of Division 33 water rights reviews that are coordinated through the Water Resources Department. However, since ORW designation is already a part of the form that DEQ staff fill out for Division 33 reviews, there will be minimal to no additional work needed to consider water rights applications in the waters proposed for ORW designation, other than that needed to update DEQ's database of ORW waters.

### **Local governments**

The proposed ORW designation will continue to protect the recreational values of both Rough and Ready Creek and the Illinois River. As a result, the ORW designations are expected to support local revenue related to recreation and tourism.

The city of Cave Junction has an NPDES permit for its wastewater treatment plant that discharges to the Illinois River five miles upstream of the proposed ORW designation. The wastewater treatment plant only discharges to the Illinois River from November 1 to May 31. From June 1 to October 31, the effluent from the wastewater treatment plant is used at a nearby golf course.

The city of Cave Junction last upgraded its wastewater treatment plant in 1998 to a system with an aerated activated sludge treatment plant with secondary clarifiers and an aerobic sludge digester. and is currently operating below capacity. As of the City's last permit renewal in 2022,

the plant was operating at 44% of its wet weather design flow and 40% of its dry weather design flow on average.<sup>1</sup>

At some point in the future, there may be a need to increase the design flow of the plant to accommodate population growth. When Cave Junction requests an increased design flow, DEQ will conduct modeling to determine if the discharge will lower the water quality of the Illinois River where it is designated as an ORW. Given the distance (about 5 miles) between the discharge and the ORW designation, it's possible that future expansion will not have an effect on the water quality in the ORW designated waters. However, if there is potential impact on the ORW water quality from future plant expansion, alternative treatment options may be required with additional cost to Cave Junction rate payers.

## **Public**

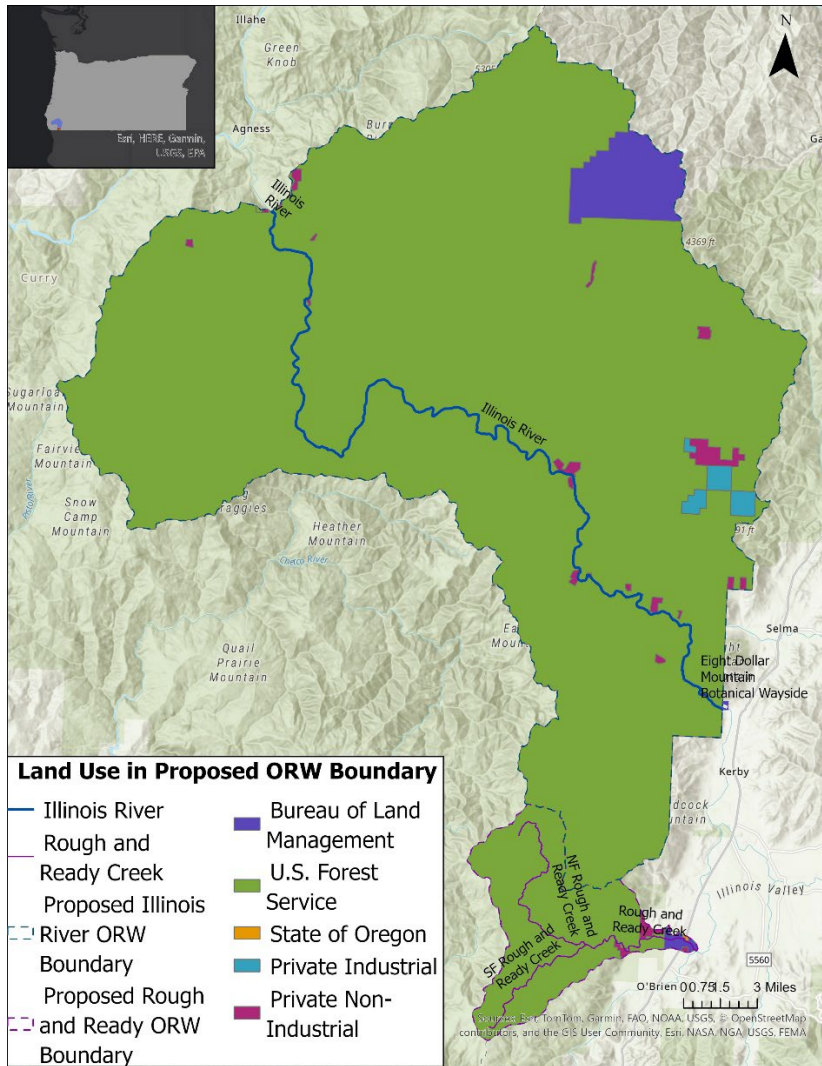
DEQ does not expect a fiscal impact to the public as a result of this rule.

## **Large businesses - businesses with more than 50 employees**

The rules will not impact large businesses conducting industrial forestry but may impact other types of large businesses that require wastewater permits. Large businesses that have industrial forest holdings in the waters proposed to be designated as ORWs will not be impacted by the ORW designation. There are approximately 2300 acres of industrial forestlands in these waters (Figure 1). DEQ has determined that compliance with current state forest practice rules for standard harvest are sufficient to ensure that any harvest will not lower water quality. As a result, there will be no impact on large forestry businesses.

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<sup>1</sup> See [City of Cave Junction, 2014. Wastewater Facilities Plan. 546 pp.](#) and ODEQ, 2022. National Pollutant Discharge Elimination System, Permit Renewal Fact Sheet, City of Cave Junction. 33 pp.



**Figure 1. Map showing management of lands in the proposed Outstanding Resource Waters.**

The rules may impact other large businesses that need a water quality permit. Absent the proposed rules, companies could obtain a National Pollutant Discharge Elimination System permit to discharge directly or indirectly to waters proposed for ORW designation. DEQ antidegradation rules allow a new NPDES permit if the discharge will meet any relevant TMDL requirements, protect endangered species, and result in no more than *de minimis* lowering of water quality, or more than *de minimis* lowering with DEQ or Environmental Quality Commission approval.<sup>2</sup>

Due to the proposed rules, businesses could not obtain an NPDES permit, but could apply for a WPCF permit, which does not allow direct or indirect discharge to waters of the state. For example, wastewater from operations could be placed in a lined holding pond or discharged to an underground injection well that had no connection to surface waters. Ensuring no discharge to surface waters could increase compliance costs to these companies, although compliance costs for monitoring could be less if there is no discharge.

<sup>2</sup> [OAR 340-041-041-0004\(6\) and \(9\)](#)

It is possible that these businesses would have to incur higher compliance costs irrespective of the proposed rules. Any operations within the area would need to undergo environmental review under the National Environmental Policy Act and Endangered Species Act if they were conducted on federal lands, which may require similar protective measures.

## **Small businesses – businesses with 50 or fewer employees**

The proposed rules would preserve benefits to the many small businesses relying on revenue from recreational users in the Illinois River and Rough and Ready Creek and their watersheds by ensuring the waters are protected for continued recreation into the future. Overall, tourism contributed \$155 million annually to Josephine County, supporting 2,230 jobs. (Visit Grants Pass, 2023).

DEQ examined if the proposed rules would impact owners of the approximately 31 small forest inholdings that are within the watersheds proposed for ORW designation. To the extent any of these owners are conducting commercial harvest, they are subject to Forest Practice Act rules and total maximum daily loads. DEQ is updating the Rogue River Temperature TMDL. If DEQ determines that current FPA rules are not sufficient to meet load allocations in forested lands, DEQ may request rule revisions through our existing memorandum of understanding with ODF. TMDL implementation may also require non-regulatory measures such as stewardship agreements, or incentive programs that may provide reasonable assurance of achieving load allocations for temperature.<sup>3</sup> As these measures are implemented, water quality will improve as a co-benefit. As a result, DEQ determined that ORW designation itself will not have fiscal impacts to public forests or owners of industrial or small forest inholdings, as they already will be subject to any requirements that come from TMDL implementation.

## **ORS 183.336 Cost of Compliance Effect on Small Businesses**

### **a. Estimated number of small businesses and types of businesses and industries with small businesses subject to proposed rule.**

Owners of small forest inholdings within the watershed of proposed ORW designation may be subject to the rule. Based on examination of the [Josephine County Property Data viewer](#), there are approximately 21 small inholdings totaling 772 acres within the Wild and Scenic Illinois River and ten within the Rough and Ready Creek watershed (Figure 1). It is unclear whether these inholdings are owned by small businesses, family-owned properties or non-profits and the extent to which any of these owners conduct commercial harvest on these inholdings.

### **b. Projected reporting, recordkeeping and other administrative activities, including costs of professional services, required for small businesses to comply with the proposed rule.**

The proposed rule will not require additional requirements for small businesses to comply with the proposed rule.

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<sup>3</sup> DEQ, 2026. Redline: Water Quality Management Plan: 2027 Rogue River Basin TMDL for Temperature, Draft for RAC 2 – May 21, 2026. 72 pp.

**c. Projected equipment, supplies, labor and increased administration required for small businesses to comply with the proposed rule.**

DEQ does not anticipate additional equipment, supply, labor or increased administration for small businesses to comply with the proposed rule.

**d. Describe how DEQ involved small businesses in developing this proposed rule.**

DEQ included small business representatives on the Illinois River/Rough and Ready Creek ORW Advisory Committee that advised DEQ on the cost of compliance for small businesses. This included representatives from recreational businesses, the forest industry, and the mining industry.

## **Documents relied on for fiscal and economic impact**

| <b>Document title</b>                                                                                                                                                                                                                        | <b>Document location</b>                                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Visit Grants Pass, 2023. 2022-2023 Annual Report. 28 pp.                                                                                                                                                                                     | <a href="#">Visit Grant's Pass website</a>                                  |
| Friends of the Kalmiopsis and Kalmiopsis Guides Association. 2024. "Nomination for Outstanding Resource Waters of the State of Oregon: Rough and Ready Creek, Its Tributaries, Springs and Associated and ( <i>sic</i> ) Wetlands." 29 pp.   | <a href="#">ORW rulemaking website</a>                                      |
| Friends of the Kalmiopsis, Klamath-Siskiyou Wildlands Center and Kalmiopsis Audubon Society. 2024. "Nomination for Outstanding Resource Waters: The National Wild & Scenic Illinois River, its Tributaries, and Associated Wetlands." 26 pp. | <a href="#">ORW rulemaking website</a>                                      |
| City of Cave Junction, 2014. Wastewater Facilities Plan. 546 pp                                                                                                                                                                              | <a href="#">Cave Junction website</a>                                       |
| National Pollutant Discharge Elimination System, Permit Renewal Fact Sheet, City of Cave Junction. 33 pp.                                                                                                                                    | Upon request to DEQ                                                         |
| DEQ, 2026. Redline: Water Quality Management Plan: 2027 Rogue River Basin TMDL for Temperature, Draft for RAC 2 – May 21, 2026. 72 pp.                                                                                                       | <a href="#">Rogue River Temperature TMDL Replacement Rulemaking webpage</a> |

## **Advisory committee fiscal review**

DEQ appointed an advisory committee.

As ORS 183.333 requires, DEQ will ask for the committee's recommendations on:

- Whether the proposed rules would have a fiscal impact.
- The extent of the impact.
- Whether the proposed rules would have a significant adverse impact on small businesses; if so, then how DEQ can comply with ORS 183.540 reduce that impact.

## **Housing cost**

As ORS 183.534 requires, DEQ evaluated whether the proposed rules would have an effect on the development cost of a 6,000-square-foot parcel and construction of a 1,200-square-foot detached, single-family dwelling on that parcel.

DEQ determined the proposed rules would have no effect on the development costs because the rules protect water quality in an area that is almost exclusively publicly owned with no residential development.

## **Racial equity**

ORS 183.335(2)(a)(F) requires state agencies to provide a statement identifying how adoption of this rule will affect racial equity in this state.

There is no expected impact on racial equity due to adoption of this rule. The rulemaking will protect water quality in the two impacted watersheds. The population that may be impacted is 90% Caucasian, 8% Hispanic/Latino of any race and less than 1% of all other races as of the 2010 Census.

The watersheds that are the focus of this rulemaking are located in the ancestral lands of the Takelma Tribe, which in the 1850s were removed and relocated into the Coast or Siletz Reservation, home to the Confederated Tribes of Siletz Indians. Some members of the Takelma Tribe were later relocated to the Grand Ronde Reservation, home to the Confederated Tribes of Grand Ronde. This rule will add an additional layer of protection to aquatic resources that are within these ancestral lands.

## **Environmental justice considerations**

ORS 182.545 requires natural resource agencies to consider the effects of their actions on environmental justice issues. DEQ considered these effects by analyzing the archive of EPA's 2023 Environmental Justice screening tool.<sup>4</sup> Cave Junction, the largest city in the area affected by this rule, like many communities in forested areas of Oregon, has experienced economic hardship following closure of almost all of the area's lumber mills. The 2023 EJ Screener

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<sup>4</sup> <https://pedp-ejscreen.azurewebsites.net/>

indicated that the supplemental demographic index was worse than 80-90% of the US.<sup>5</sup> This is primarily driven by high levels of unemployment and an older population.

Environmental burden in the area is high for particulate matter due to the frequency of wildfires but is otherwise less than 50<sup>th</sup> percentile compared to the rest of the US for other environmental indicators.

There may be some concern about the impact of ORW designation on the timber industry. These watersheds are primarily managed by the Forest Service as late successional reserves under the Northwest Forest Plan, meaning there is only limited stand treatment allowed. Moreover, the harvest that occurs already is subject to FPA requirements and will be subject to the Rogue River Temperature TMDL when it is finalized in 2027. As a result, DEQ determined that the ORW designation will not impact the timber industry, as these requirements will safeguard existing water quality.

DEQ included timber interests and staff from the City of Cave Junction to ensure that these communities were represented on the rulemaking advisory committee.

In addition, DEQ is holding at least one RAC meeting in Cave Junction and will also hold a public hearing on the proposed rules in Cave Junction to ensure that the most directly affected community can participate in the rulemaking.

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## **Non-discrimination statement**

DEQ does not discriminate on the basis of race, color, national origin, disability, age, sex, religion, sexual orientation, gender identity, or marital status in the administration of its programs and activities.

For translation or other formats, visit DEQ's [Civil Rights and Environmental Justice page](#).

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<sup>5</sup> The supplemental demographic index combines the percent of the population in a given area with the following characteristics: 1. low-income; 2. disability; 3. less than high school education; 4. limited English speaking; 5. low life expectancy.