[DRAFT 06/29/2015] "Pilot" Scenic Waterway Flow Recommendation: Chetco River

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Acknowledgements

Thank you to the Chetco Advisory Group members who took the time to engage in this pilot process. Advisory Group Members provided crucial input and insights into the flow needs for the proposed Chetco Scenic Waterway. Advisory Group Members include:

Alyssa Babin, Wild and Scenic Rivers, Brookings
Forrest English, Rogue Riverkeeper
Pat Fadden, South Coast Lumber
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Kat Moya, Manager, Chetco River Inn, Brookings
Julie Schmelzer, Curry County Administration
Mark Sherwood, Native Fish Society, Brookings
Harvey Young, Fishawk River Company, Fishing Guide Services, Brookings

Special thanks also to Oregon Parks and Recreation and Oregon Water Resources Department staff who supported the Chetco Scenic Waterway Advisory Group pilot effort:

Brenda Bateman, WRD
Dwight French, WRD
Chris Havel, OPRD
Shavon Hayes, WRD
Laurel Hillmann, OPRD
Rocky Houston, OPRD
Calum Stevenson, OPRD
Carrie Lovelette, OPRD
Rachel LovellFord, WRD
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Trevor Taylor, OPRD

Introduction

This "Scenic Waterway Flow Recommendation" contains a summary of recommended recreational flows for the Chetco River. These recommendations are the result of a pilot citizen engagement process lead by the Oregon Parks and Recreation Department (OPRD) as well as water availability analysis carried out by the Oregon Water Resources Department (WRD). A description of this pilot process and any public comment that resulted from the advisory group meetings are captured below.

Background

The Scenic Waterway Act became state law in 1970, and with it, many of Oregon's premier recreational rivers were designated state Scenic Waterways. The resulting statute specifically identified recreation, fish, and wildlife uses as the highest and best uses of the designated waterways and their waters. Scenic Waterway statute also directed the Water Resources Commission to consider the quantities of water necessary for recreation, fish, and wildlife uses within or above a designated Scenic Waterway before granting new water rights (ORS 390.835).

In September 2013, the Governor directed OPRD to analyze at least three waterways for potential designation every two years in fulfillment of the statute (ORS 390.855) directing periodic study of new waterways for potential inclusion in the program. An initial screening of Oregon waterways by OPRD resulted in a list of approximately 80 river segments that have the potential to meet the State's waterway designation criteria. Based on a broad coalition of agencies and stakeholders, OPRD's capacity to complete the waterway assessments, and the desire to provide geographical distribution throughout the State, sections of the Molalla, Chetco, and Grande Ronde Rivers were included in the 2013-15 pilot study (http://www.oregon.gov/oprd/NATRES/scenicwaterways/Pages/assessments.aspx). Based on the evaluation of eligibility criteria for the river and public input received during the waterway assessment, the Grande Ronde was dropped from the designation process.

In November 2014, the Oregon State Parks and Recreation Commission recommended Scenic Waterway designation of segments of the Chetco and Molalla Rivers. The Commission also directed OPRD staff to cooperate with advisory groups to develop draft management plans for the recommended Scenic Waterway segments on the Chetco and Molalla rivers, and to bring materials for Commission review by November 2015.

Starting in March 2015, OPRD convened pilot advisory groups comprised of local land owners, recreational business operators, and local government/interest groups for both of the proposed waterways. These groups were tasked with working with OPRD staff to compile a draft management plan for each waterway. Upon conclusion of the pilot advisory group process, OPRD will ask the Water Resources Commission to review Scenic Waterway qualification reports and draft management plans and to concur with the Parks and Recreation Commission's recommendation for designation.

WRD's role in the Draft Management Plan process is to consider and seek public input regarding Scenic Waterway Flows so that WRD may recommend to the Water Resources Commission. As part of these

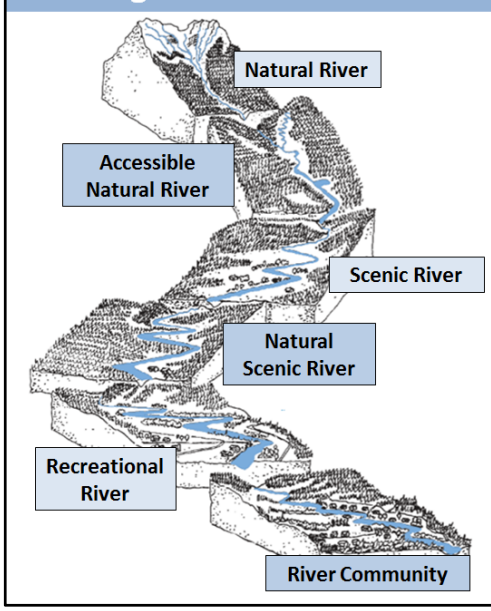
efforts, WRD has joined OPRD in the pilot Advisory Group process. WRD staff will be using the Advisory Group meetings and public workshop period to collect information from water users in the basin regarding optimal recreation flows. This recommendation report will be an appendix to the Draft Management Plan for the Chetco River.

Approach and Process for Scenic Waterway Flow Recommendations

For recreation, fish and wildlife uses (ORS 390.835(1)), WRD recommends Scenic Waterway flows through official staff reports to the Water Resources Commission. If the Commission agrees with the recommendations, staff will protect these flows through water right allocations and permit conditions for new water rights within and above the Scenic Waterway. Scenic Waterway Flow recommendations are informed by 1) WRD's Water Availability Reporting System (WARS) program (including existing instream water rights) and 2) input from OPRD's Advisory Group and Public Workshop process. The Advisory Group may use, among other methods, the Scenic Waterway Flow Framework (Framework) to provide input for specific flow recommendations (Figure 1).

The Framework, drafted by WRD staff, combines Scenic Waterway Management Classifications (OAR-736-040) with the median monthly natural streamflow defined by the WARS output. A Classification is identified for each section of the Scenic Waterway through OPRD's Draft Management Plan process. The range of recommended percentages listed for each classification are intended to mirror existing levels of development within the larger basin while still protecting a majority of the water available for allocation.

Scenic Waterway Flow Framework



Scenic Waterway Management Classifications	Recommended Scenic Waterway Flow Range *(percent of median monthly flow)*
Natural River	Natural River: 100%
Accessible Natural River	Accessible Natural River: 95-100%
Scenic River	Scenic River: 90-100%
Natural Scenic River	Natural Scenic River: 85-100%
Recreational River	Recreational River: 80-100%
River Community	River Community: 75-100%

Figure 1. The Scenic Waterway Flow Framework used by the Advisory Groups to suggest flows for protection within any proposed Scenic Waterway. The varying levels of protection (range of percentages) are intended to mirror the level of current land use as identified by the Scenic Waterway Management Classification system.

Impact of Setting of Scenic Waterway Flows on Existing or Future Water Development

Scenic Waterways are designated in order to protect the existing scenic nature of a waterbody. In many cases, this scene involves existing developed lands that already divert and use water. It is important to note that new Scenic Waterway designations have no impact on existing water rights within, above, or below the designated reach. Similarly, future uses of surface water downstream will not be limited because of the upstream Scenic Waterway flows. However the availability of water for future surface water uses within or above the Scenic Waterway will be subject to Scenic Waterway flow levels adopted by the Water Resources Commission. In addition, these flows may be used as a permit condition attached to new water rights granted within or above the designated Scenic Waterway. For more information on specific exceptions, statutes, and rules surrounding new surface and groundwater use within or above a Scenic Waterway, see the "Additional Information" section.

Chetco River Scenic Waterway Flows: Background and Recommendations

Description of Chetco Scenic Waterway

The Chetco River Study Area referred to in the Scenic Waterway study is defined as follows: The Chetco River and all lands within ¼ mile of each bank, beginning where the Steel Bridge crosses the river within the Rogue River-Siskiyou National Forest downstream approximately fourteen miles to Alfred A. Loeb State Park, near the city of Brookings, Oregon (Figure 2).

OWRD Water Availability Reporting System (WARS) Input

Scenic Waterway Flows are to be protected during the issuance of new water rights. This occurs through the use of WRD's Water Availability Reporting System (WARS) to quantify water available for allocation and the inclusion of permit conditions on subsequent, new water rights. WRD uses the median, natural streamflow (aka 50 percent exceedance natural streamflow) as reported through the WARS program to determine the total amount of water available for storage or instream uses when considering an application for a new water use. The median, natural streamflow for the proposed reach of the Chetco River can be seen in Table 1.

Within and above the proposed Scenic Waterway reach of the Chetco River, out-of-stream allocations are minimal (less than 0.01 percent of annual streamflow). There are existing instream rights that protect fish and wildlife needs during the summer and fall months and prevent future allocation within and above designated reaches (Table 1). In addition, existing downstream water users have already established water rights which limit any additional water allocation throughout the basin for much of the year. Water may still be available to allocate for storage from November through June.

For more information on the Water Availability Reporting System, please see the "Additional Information" section and/or visit WRD's website:
http://www.oregon.gov/owrd/Pages/wr/index.aspx#Water_Availability_Report_System

Table 1. Median, natural streamflow and existing instream water rights by month for Water Availability Basin 31731224 (coincident with the downstream end of the Chetco Scenic Waterway). Instream water rights are protected by certificate 72796. The instream water right is larger than or equal to the median, natural streamflow for the months of August, September, and October. Water Availability Report from 6/22/2015.

Month	Median, Natural Streamflow (WAB 31731224) (cfs)	Instream Water Right Streamflow (WAB 31731224) (cfs)
January	3050	350
February	3230	350
March	2730	350
April	1670	350
May	774	350
June	321	200
July	157	100
August	94.6	100
September	80.5	86.8
October	209	221
November	1550	450
December	3410	450

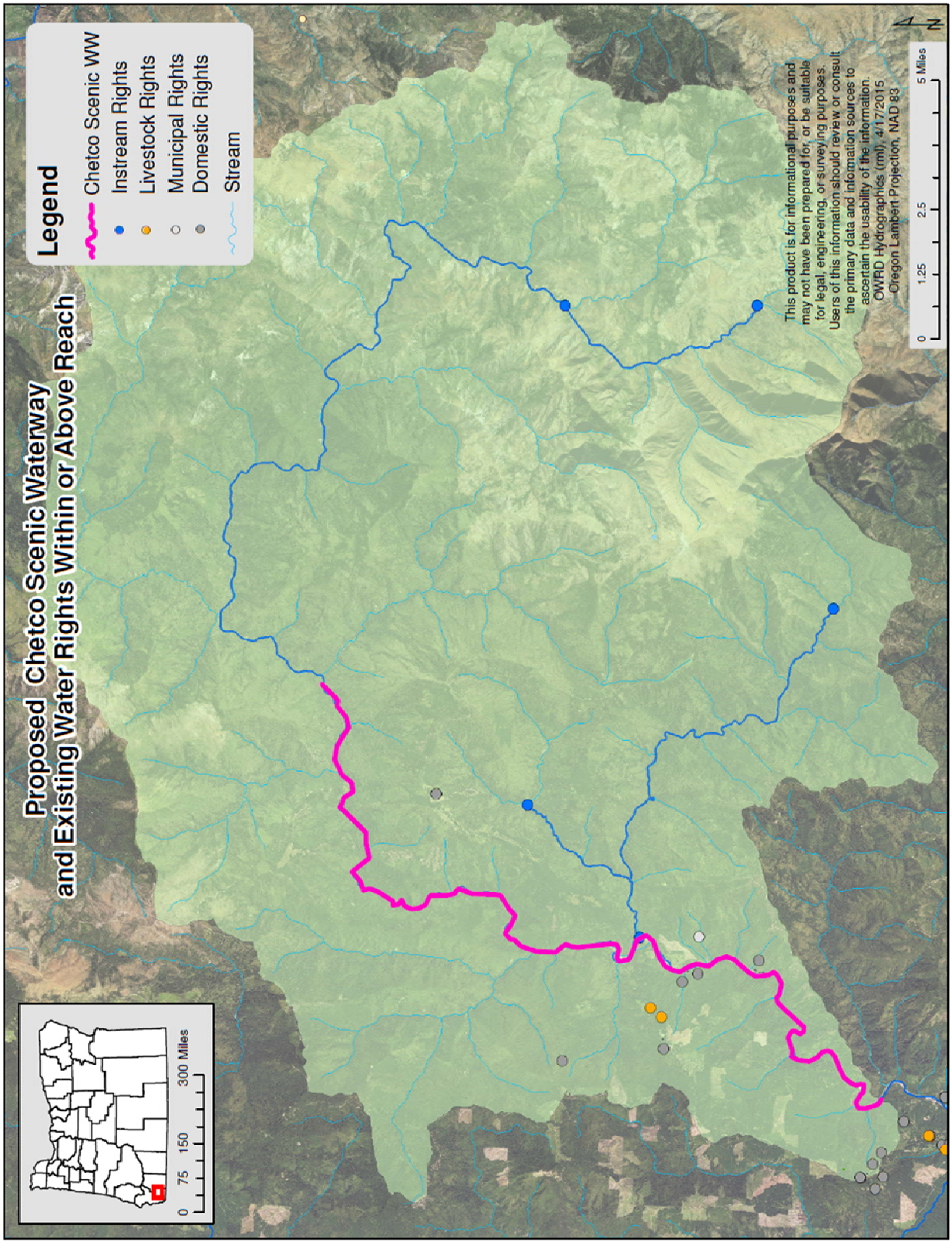


Figure 2. Map of proposed Scenic Waterway reach of the Chetco River (pink), the basin above the proposed Scenic Waterway (light green), and existing water rights within the Scenic Waterway.

Scenic Waterway Flow Framework Input

One of the ways that the Chetco Advisory Group provided input regarding the recreational flow needs was by using the Scenic Waterway Flow Framework. Input using this framework was gathered during two Advisory Group meetings held in April and June. See OPRD's Scenic Waterway website for meeting minutes, materials, and presentations (http://bit.ly/scenicwaterways).

Meeting #1: Scenic Waterway Flow Framework Input

To arrive at a streamflow recommendation, the Scenic Waterway Flow Framework utilizes the Scenic Waterway Management Classification for each portion of the river as established by the Chetco Advisory Group. During the first part of this meeting, the Advisory Group agreed to the following Management Classifications:

- Upper Segment - Steel Bridge to Eagle Creek: Accessible Natural River
- Middle Segment- Eagle Creek to South Fork Chetco Confluence: Scenic River
- Lower Segment- South Fork Chetco Confluence to Alfred A. Loeb State Park: Recreational River

See the "DRAFT Pilot State Scenic Waterway Management Plan: Chetco River" document, Figure 4 for the draft section classification map and more information on the intent and meaning of the classifications (http://bit.ly/scenicwaterways).

The classification discussion was followed by a short presentation on water rights, Scenic Waterway Flows and the Scenic Waterway Flow Framework by WRD staff. At the end of the meeting, OPRD and WRD asked the Advisory Group members to complete a "homework" assignment wherein they were to identify their personal management objectives for the river and to use the Scenic Waterway Flow Framework to identify the levels of streamflow protection they though best met the recreational flow needs of the river. Three Advisory Group members made numeric recommendations for flow levels using the Scenic Waterway Flow Framework and one member contributed narrative recommendations. The numeric feedback was combined into a range of flows and the dominant sign (+ or -) reported by participants to convey the relative importance of streamflow to personal recreational uses of the river. This summary of numeric and written comment was provided to the group at the second meeting (Table 2).

Meeting #2: Review of Scenic Waterway Flow Recommendation to the Water Resources Commission

The second meeting began with a discussion of the range of flows recommended as a result of Meeting #1 homework. Following a question and answer session which included a short presentation, WRD staff collected additional input from the attendees about preferred flow protection levels using a prioritization activity. The goal of this process was to ensure that all Advisory Group members had the opportunity to provide input. Consensus was not required for the recommendation, though it is noted where reached.

Consensus was reached by the group for protection of 100 percent of the median monthly flows for all months in the Upper and Middle Segments of the proposed waterway and for a majority of the year within the Lower Segment (Table 3). Within the Lower Segment, a range of flows were recommended of 95-100 percent from January through March.

Additional recommendations were as follows:

- The group recommended that the community in the basin consider a collaborative, local planning effort in order to mitigate the low flows that might interfere with drinking water supply and fisheries needs during the low flow part of the year. WRD's Place-Based Planning program may be able to assist with this process.

- Studies of interest identified through the prioritization activity:
    - What are the specific additional fish and wildlife needs on the river?
    - How do cattle crossing the stream impact the water quality?
    - How are recreational uses affected by current water development?

Public Comment (TBD)

Input from the Public Comment being collected through OPRD's Public Comment Period will be summarized here; all comments relevant to Scenic Waterway Flows will be added as an appendix to this document.

Table 2. Summary of comments received following the first Advisory Group Meeting for the Chetco River. Participants were also asked to note the relative importance of flows for recreation purposes using (+) or (-) signs. Numbers refer to the range of recommended percentages of the median, monthly flow that participants would like to protect.

Segments and suggested range of flows from Scenic Waterway Flow Framework	**Upper Segment - Steel Bridge to Eagle Creek: <u>Accessible Natural River</u>** *(95 – 100% of monthly median, natural streamflow)*	**Middle Segment- Eagle Creek to South Fork Chetco Confluence: <u>Scenic River</u>** *(85– 100% of monthly median, natural streamflow)*	**Lower Segment-South Fork Chetco Confluence to Alfred A. Loeb State Park: <u>Recreational River</u>** *(80 – 100% of monthly median, natural streamflow)*
January	(+), 95 to 100%	(-), 85 to 100%	(-), 85 to 100%
February	(+), 95 to 100%	(-), 85 to 100%	(-), 85 to 100%
March	(+), 95 to 100%	(-), 90 to 100%	(-), 85 to 100%
April	(+), 95 to 100%	(+), 90 to 100%	(+), 85 to 100%
May	(+), 95 to 100%	(+), 90 to 100%	(+), 85 to 100%
June	(+), 95 to 100%	(+), 90 to 100%	(+), 85 to 100%
July	(+), 95 to 100%; *100% already allocated within basin*	(+), 90 to 100%; *100% already allocated within basin*	(+), 85 to 100%; *100% already allocated within basin*
August	*100% already protected as instream water right*	*100% already protected as instream water right*	*100% already protected as instream water right*
September	*100% already protected as instream water right*	*100% already protected as instream water right*	*100% already protected as instream water right*
October	*100% already protected as instream water right*	*100% already protected as instream water right*	*100% already protected as instream water right*
November	(+), 95 to 100%	(-), 85 to 100%	(-), 85 to 100%
December	(+), 95 to 100%	(-), 85 to 100%	(-), 85 to 100%

In addition to the table above, the following non-numeric recommendations from within the Advisory Group are as follows:

- Fish and wildlife depend on the Chetco River year round; full protection of the waters in the Chetco should be extended per ORS 390.835, which identifies that the highest and best use of waters within Scenic Waterways are recreation, fish, and wildlife. No additional water should be allocated within or above the proposed Scenic Waterway.

Table 3. Results of voting exercise at second Advisory Group meeting on the Scenic Waterway Flow Recommendation. Numbers refer to the range of recommended percentages of the median, monthly flow that participants identified for protection using a prioritization activity. Where consensus has been reached, a single percentage is listed; otherwise a range of percentages denotes the full spectrum of opinion.

Segments and suggested range of flows from Scenic Waterway Flow Framework	**Upper Segment - Steel Bridge to Eagle Creek: <u>Accessible Natural River</u>** *(95 – 100 % of monthly median, natural streamflow)*	**Middle Segment- Eagle Creek to South Fork Chetco Confluence: <u>Scenic River</u>** *(85– 100 % of monthly median, natural streamflow)*	**Lower Segment- South Fork Chetco Confluence to Alfred A. Loeb State Park: <u>Recreational River</u>** *(80 – 100 % of monthly median, natural streamflow)*
January	100%	100%	95 to 100%
February	100%	100%	95 to 100%
March	100%	100%	95 to 100%
April	100%	100%	100%
May	100%	100%	100%
June	100%	100%	100%
July	100% *100% already allocated within basin*	100% *100% already allocated within basin*	100% *100% already allocated within basin*
August	*100% protected as instream water right*	*100% protected as instream water right*	*100% protected as instream water right*
September	*100% protected as instream water right*	*100% protected as instream water right*	*100% protected as instream water right*
October	*100% protected as instream water right*	*100% protected as instream water right*	*100% protected as instream water right*
November	100%	100%	100%
December	100%	100%	100%

Chetco Scenic Waterway Flow Recommendation

Scenic Waterway Flow recommendations from the Advisory Group are summarized below (Table 4). Where consensus has been reached, a single percentage is listed; otherwise a range of percentages denotes the full spectrum of opinion.

Table 4. DRAFT recommended values to be adopted by the Commission as the Scenic Waterway Flows for the Chetco River.

<table>
<tr><th>Month</th><th><u>Recommended Scenic Flow:</u>
Upper Segment-
Steel Bridge to
Eagle Creek

<u>Accessible Natural River</u>

(% of median, natural streamflow to protect)</th><th><u>Recommended Scenic Flow:</u>
Middle Segment-
Eagle Creek to South Fork
Chetco Confluence

<u>Scenic River</u>

(% of median, natural streamflow to protect)</th><th><u>Recommended Scenic Flow:</u>
Lower Segment-
South Fork Chetco Confluence
to Alfred A. Loeb State Park

Recreational River

(% of median, natural streamflow to protect)</th></tr>
<tr><td>January</td><td rowspan="7">100%</td><td rowspan="7">100%</td><td rowspan="3">95-100%</td></tr>
<tr><td>February</td></tr>
<tr><td>March</td></tr>
<tr><td>April</td><td rowspan="4">100%</td></tr>
<tr><td>May</td></tr>
<tr><td>June</td></tr>
<tr><td>July</td></tr>
<tr><td>August</td><td rowspan="3">100% already protected as ISWR; recommend that Scenic Waterway Flow matches ISWR</td><td rowspan="3">100% already protected as ISWR; recommend that Scenic Waterway Flow matches ISWR</td><td rowspan="3">100% already protected as ISWR; recommend that Scenic Waterway Flow matches ISWR</td></tr>
<tr><td>September</td></tr>
<tr><td>October</td></tr>
<tr><td>November</td><td rowspan="2">100%</td><td rowspan="2">100%</td><td rowspan="2">100%</td></tr>
<tr><td>December</td></tr>
</table>

Additional Information

Statutory Authority and Administrative Rule

Scenic Waterway statutes are found under ORS 390. Statute related to allocation of surface water and groundwater within or above a Scenic Waterway is addressed in ORS 390.835(1) and ORS 390.835(6-13). In regards to surface water allocations, the statute states, ”The free-flowing character of the waters of Scenic Waterways shall be maintained in quantities necessary for recreation, fish and wildlife uses,” and, ”No dam or reservoir or other water impoundment facility shall be constructed on the waters of a Scenic Waterway” (ORS 390.835(1). Groundwater rights are not impacted,”…except upon a finding by the Water Resources Director that there is a preponderance of evidence that the use of ground water will measurably reduce the surface water flows necessary to maintain the free-flowing character of a Scenic Waterway in quantities necessary for recreation, fish, and wildlife” (ORS 390.835(9)).

For additional statutes and the full, legal text of the statue, see ORS 390.835.

Rules regarding the granting of all water rights within the state of Oregon are addressed in OAR 690-310. WRD may issue surface water rights for limited human consumption and livestock within or above a designated Scenic Waterway reach when flows are less than the quantities necessary for recreation, fish, and wildlife (690-310-260(1b)) given a set of conditions ranging from impacts to the free-flowing character, maximum diversion rates based on human and livestock density per right, and documentation showing that there are no alternate acceptable water sources. Cumulatively, the total amount that can be granted under section (1b) is equal to no more than a combined cumulative total of one percent of the average daily flow or one cubic foot per second, whichever is less.

Groundwater rights are also tracked for their cumulative impact on Scenic Waterway flow needs. Those rights that are found to measurably reduce surface water flows within the Scenic Waterway when individual, or cumulative groundwater rights reduce surface water flows within the Scenic Waterway in excess of a combined cumulative total of one percent of the average daily flows by month or one cubic foot per second, whichever is less (OAR 690-310-260 (11)).

For additional rules and the full, legal text of the rule, see OAR 690-310-260.

Scenic Waterway Flow Recommendation Input Summary

Recommendations for Scenic Waterway Flows are developed using input from two sources:

1. Water Availability Reporting System (WARS): WRD’s calculation of median natural streamflow is performed using WARS and includes a calculation of median monthly flows, on a summary of existing consumptive and instream water rights, and a summary of limiting basis for the waterway. Access WRD’s Water Availability Program here: (http://www.oregon.gov/owrd/Pages/wr/index.aspx#Water_Availability_Report_System)

2. Input from the OPRD Pilot Advisory Group (2015) and Public Comment (2015) for the proposed Chetco Scenic Waterway using the Scenic Waterway Flow Framework (Framework) and additional comments (Figure 1). WRD utilized OPRD's Draft Management Plan public Advisory Group process to assist in the identification of recreation flow needs. The Framework directly relates to the allocation tools developed through the WARS program which WRD uses to consider future allocations.

Scenic Waterway Flow Protection

If the Commission requests WRD to include a Scenic Waterway Flow within their allocation process, WRD would implement this flow protection using two tools:

1. Water Availability Reporting System: WARS computes available water for a new permit by subtracting existing water rights, including instream rights and Scenic Waterway Flows, from natural streamflow. New consumptive uses are limited to available water and are subject to additional restrictions. Instream uses within WARS can be less than or equal to the natural flow values computed at the 50 percent exceedance, or the median monthly streamflow.

2. Permit Conditions: Permit conditions for new water rights issued within or above the Scenic Waterway may include specific flow levels that must be met at a downstream gage in order for a new permitee to be allowed to divert water. This may include restricted periods per recommendation inputs from the Advisory Group.

OWRD Water Availability Report Output

Median Natural Flow

The median natural flow is computed through WARS and is the monthly maximum amount of water that can be allocated within a WAB for storage or instream uses. For this reason, computation of the median, monthly flow allows the department to identify maximum Scenic Waterway Flows within the allocation context.

The downstream end of the proposed Chetco Scenic Waterway corresponds with WRD Water Availability Basin (WAB) 31731224. Median, natural streamflow (50 percent exceedence) is presented in Table 1 for WAB 31731224.

Existing Water Rights: Consumptive and Instream

Within and above the proposed Scenic Waterway reach of the Chetco River, out-of-stream allocations are minimal (less than 0.01 percent of annual streamflow) (Figure 2). Existing monthly consumptive uses are less than 0.05 percent of the natural, median streamflow in any month. Instream water rights exist for multiple sections of the river within and above the Scenic Waterway. Instream water right 72796 extends from the mouth of the South Fork Chetco River to the North Fork Chetco River; an area which overlaps with the downstream end of the proposed Scenic Waterway (Figure 2 and Table 1).

Water Availability Report: Limiting Basins and Months with Available Water

Much of the basin downstream of the proposed Scenic Waterway is already allocated for consumptive and instream uses; this is reflected in the limiting watershed analysis from the WARS report (Table 5). The method for determining whether water is available for a new permit is determined based upon the requested use. Water availability for diversions for storage or instream uses is considered at the 50 percent exceedance flow level (aka monthly median, natural flow). In the Chetco basin, water is available for future allocation for storage from November through June.

Table 5. Assessment of months during the year when water is available for additional uses based on totals of existing allocations. The table is derived from the limiting watersheds analysis from the Water Availability Reporting System for WAB # 31731224 on 6/22/2015. Months without available water are shaded grey.

Exceedance Level (%)	Month	Limiting Watershed_ID	Stream Name	Water Available?
50	JAN	70907	CHETCO R > PACIFIC OCEAN - AB N FK CHETCO R	YES
50	FEB	70907	CHETCO R > PACIFIC OCEAN - AB N FK CHETCO R	YES
50	MAR	70907	CHETCO R > PACIFIC OCEAN - AB N FK CHETCO R	YES
50	APR	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	YES
50	MAY	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	YES
50	JUN	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	YES
50	JUL	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	NO
50	AUG	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	NO
50	SEP	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	NO
50	OCT	70908	CHETCO R > PACIFIC OCEAN - AT MOUTH	NO
50	NOV	70907	CHETCO R > PACIFIC OCEAN - AB N FK CHETCO R	YES
50	DEC	70907	CHETCO R > PACIFIC OCEAN - AB N FK CHETCO R	YES

References and Additional Resources

To access OPRD's Draft Management Plan for the Chetco River, updates on the public comment period, and meeting minutes, materials, and presentations to the Advisory Group, please visit: http://bit.ly/scenicwaterways.

To see the Molalla, Chetco, and Grande Ronde Rivers scenic waterway assessments from 2013-15 please visit: http://www.oregon.gov/oprd/NATRES/scenicwaterways/Pages/assessments.aspx.

For more information on the Water Availability Reporting System, please visit WRD's website: http://www.oregon.gov/owrd/Pages/wr/index.aspx#Water_Availability_Report_System

Statutes related to Oregon's Scenic Waterway Program can be found summarized here: http://www.oregon.gov/oprd/RULES/pages/waterways.aspx