

(16) Tanner Creek—forming Wahclella Falls.

(17) Eagle Creek—forming Metlako Falls.

(18) Ruckle Creek, formerly known as Deadman's Creek.

(19) Herman Creek.

(20) Grays Creek.

(21) Gorton Creek—forming Gorton Creek Falls.

(22) Harphan Creek.

(23) Summit Creek—forming Camp Benson Falls.

(24) Lindsey Creek—forming Lindsey Falls.

(25) Spring Creek, also known as Wonder Creek—forming Lancaster Falls.

(26) Warren Creek.

(27) Cabin Creek.

(28) Starvation Creek—forming Starvation Falls.

(29) Viento Creek.

(30) Perham Creek.

(31) Phelps Creek, except those creeks which are tributary to Phelps Creek and which arise in the north one-half of section 5, township 2 north, range 10 east of the Willamette Meridian, subject to prior rights. [Amended by 1953 c.48 §2; 1985 c.261 §1]

538.210 Condemnation of lands for park not prevented; vested and riparian rights not affected; condemnation of lands or appropriation of waters for fish culture not prevented. ORS 538.200 shall not prevent the condemnation for public park purposes of any lands through which any of the streams flow; nor affect vested rights or the rights of riparian proprietors of such lands in or to the waters of the creeks or streams; nor prevent the condemnation of any lands through which any of the streams flow, for the purpose of establishing, maintaining and operating thereon salmon fish culture work, nor prevent the State Fish and Wildlife Commission from appropriating any waters for fish culture work; nor prevent the appropriation, for irrigation purposes, of waters between the Union Pacific Railroad tracks and the Columbia River that flow from any of the streams other than Herman Creek; provided, that no waters shall be taken from above the falls in the streams mentioned in ORS 538.200. [Amended by 1978 s.s. c.2 §1]

538.220 Waters of Mill and Barr Creeks, Jackson County, withdrawn; exceptions. (1) The waters described as follows are withdrawn from appropriation or condemnation, and shall not be diverted or interrupted for any purpose whatsoever, except

for domestic purposes and protecting fish life therein by the State Fish and Wildlife Commission:

(a) The waters of Mill Creek, in Jackson County, beginning in section 22, township 31 south, range 4 east, Willamette Meridian, running thence southwesterly through township 31 south, range 3 east, Willamette Meridian, and township 32 south, range 3 east, Willamette Meridian, to a junction with the Rogue River in section 32, township 32 south, range 3 east, Willamette Meridian, together with the tributaries of said Mill Creek; and

(b) Barr Creek, in Jackson County, beginning in section 1, township 32 south, range 3 east, Willamette Meridian, and in section 6 and section 7, township 32 south, range 4 east, Willamette Meridian, running thence in a general southwesterly direction through township 32 south, range 3 east, Willamette Meridian, to a junction with the Rogue River in section 32, township 3 east, Willamette Meridian, together with the tributaries of said Barr Creek.

(2) Subsection (1) of this section shall not prevent the appropriation of the waters of Mill Creek, in Jackson County, for the development of hydroelectric power not to exceed one megawatt if:

(a) The hydroelectric project is located on Mill Creek at a point at least two miles above the confluence of Mill Creek and the Rogue River;

(b) All water appropriated from the stream is returned to the stream at a point at least one-half mile above the confluence of Mill Creek and the Rogue River; and

(c) The facility will be constructed and operated in compliance with recommendations by the State Department of Fish and Wildlife concerning fish conservation, including streamflow requirements based upon biological criteria. [Amended by 1959 c.104 §1; 1983 c.650 §1]

538.230 Vested water rights not affected; condemnation for park not prevented. ORS 538.220 shall not affect vested water rights or prevent condemnation for public park purposes of lands through which Mill and Barr Creeks or their tributaries flow.

538.240 [Repealed by 1963 c.95 §1]

538.250 [Repealed by 1953 c.222 §3]

538.251 Tributaries of Columbia River; limitations on appropriation or diversion. Except as otherwise provided in this section, the following waters, all being tributaries of the Columbia River, are withdrawn from appropriation and shall not be diverted or interrupted for any purpose, except for