

**DIVERSION BY MORROW COUNTY**

**538.010 Waters diverted from Ditch Creek; rights of use and appropriation; certificate; time limitation.** (1) The waters of Ditch Creek which were diverted to and became a part of the waters of Willow Creek, under the provisions of chapter 324, Oregon Laws 1939, are subject to the same rights of use and appropriation as the original waters of Willow Creek.

(2) The right of the county court of Morrow County to divert and store the waters of Ditch Creek, acquired under the certificate issued by the Water Resources Director licensing such diversion and storage, shall date from the time the application to divert and store such waters was filed. The waters shall be used for the purposes, in the manner and under the conditions set forth in the certificate, for such time as the use is for the public interest. If the waters are not used under the license for a five-year period, the license shall expire.

**538.020 Acquisition of property necessary for storage and diversion.** The county court of Morrow County may, for the purposes set forth in chapter 324, Oregon Laws 1939, acquire, in the name of the county and for the use of the public, by purchase, eminent domain proceedings, lease, grant, gift, bequest, devise or any other legal means, real and personal property, rights of way, easements and other property rights or privileges necessary to effect the storage and diversion of the waters referred to in that Act, and maintain and care for such property and rights in the manner provided by statute for the care and maintenance of other county property.

**WITHDRAWALS FROM APPROPRIATION**

**538.110 Tumalo Creek, Deschutes County; diversion prohibited; excepted uses; existing rights.** For the purpose of maintaining and perpetuating the recreational and scenic resources of Oregon, the waters of that portion of Tumalo Creek, in Deschutes County, situated above a point one-half mile above the intake of the Columbia Southern Canal in section 2, township 18 south, range 10 east, Willamette Meridian, in Deschutes County, shall not be diverted for any purposes whatsoever, except for municipal, domestic and stock uses. Nothing in this section shall be construed to impair any vested rights existing as of June 4, 1929, in the creek or its tributaries. This section shall not apply to the waters of the south fork of Tumalo Creek. [Amended by 1959 c.223 §1]

**538.120 Silver Creek, Marion County, and Brushes Creek, Curry County, and tributaries; diversion prohibited.** The waters of the north and south forks of Silver Creek and of all tributaries thereof above the confluence of the north and south forks of Silver Creek, all in Marion County, also Brushes Creek and all its tributaries in township 33 south, range 14 west, Willamette Meridian, in Curry County, are withdrawn from appropriation or condemnation, and shall not be diverted or interrupted for any purpose whatsoever, except for use in state parks and except as set forth in ORS 538.130 and section 2, chapter 480, Oregon Laws 1965. [Amended by 1965 c.480 §1]

**538.125 Certain appropriations vested notwithstanding ORS 538.120.** All appropriations made under the provisions of section 2, chapter 480, Oregon Laws 1965, shall become vested when completed as provided by ORS 537.250. Any person having obtained a vested water right prior to April 19, 1967, under the provisions of section 2, chapter 480, Oregon Laws 1965, may apply to the Water Resources Commission for an increase of vested water rights, as provided by ORS chapter 537. [1967 c.169 §1; 1985 c.673 §78]

**538.130 Condemnation of lands for park; vested and riparian rights not affected.** ORS 538.120 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 water of the creeks or streams.

**538.140 Diamond Lake and tributaries; diversion, interruption or appropriation of waters prohibited; excepted uses.** In order to maintain, increase and perpetuate game fish and game fish propagation within Oregon, the waters or use of the waters of Diamond Lake and its tributaries situated in Douglas County shall not be diverted, interrupted or appropriated for any purpose whatsoever, except for domestic use on contiguous and surrounding land or other water uses necessary to maintain, increase and perpetuate game fish and game fish propagation in Diamond Lake and its tributaries. [Amended by 1999 c.252 §1]

**538.150 Hackett Creek, Clackamas County, and tributaries; appropriation, condemnation and diversion prohibited; protection of fish.** The waters of Hackett Creek, a tributary of the Sandy River located in Clackamas County, and of the tributaries of Hackett Creek, are withdrawn from appropriation or condemnation and shall not be diverted or interrupted for any purpose whatsoever, except for protecting fish life therein by the State Fish and Wildlife Commission.