

finds that the leasing of the water right for in-stream use can be effected without injury to other existing water rights or can be conditioned to prevent injury to other existing water rights.

(5) The department at any time may revoke or modify an order issued for a lease under subsection (2) of this section if the department determines that the use of the water right for in-stream use under the lease has resulted in or may result in injury to an existing water right.

Note: Section 5 (2), chapter 165, Oregon Laws 2013, provides:

Sec. 5. (2) Notwithstanding the amendments to ORS 537.348 by section 2 of this 2013 Act, any lease or lease renewal allowing the split use of water between an existing water right and an in-stream water right during the same calendar year and having a term that began before the operative date of the amendments to ORS 537.348 by section 2 of this 2013 Act [January 2, 2024] may continue in effect until the earlier of the expiration of the term or five years after the operative date of the amendments to ORS 537.348 by section 2 of this 2013 Act. This subsection does not allow the total period for which a water right may be leased for the split use of water during the same calendar year to exceed 10 years. [2013 c.165 §5(2)]

537.349 Processing request for in-stream water right. Except as provided in ORS 537.343, the Water Resources Department shall process a request received under ORS 537.336 for a certificate for an in-stream water right in accordance with the provisions for obtaining a permit to appropriate water under ORS 537.140 to 537.252. [1995 c.416 §19]

537.350 Legal status of in-stream water right. (1) After the Water Resources Commission issues a certificate for an in-stream water right under ORS 537.341 to 537.348, the in-stream water right shall have the same legal status as any other water right for which a certificate has been issued.

(2) An in-stream water right is not subject to cancellation under ORS 537.260 or 537.410 to 537.450 but an in-stream water right may be canceled under ORS 540.610 to 540.650. [1987 c.859 §10]

537.352 Precedence of uses. Notwithstanding any provision of ORS 537.332 to 537.343 and 537.350, the right to the use of the waters of this state for a project for multipurpose storage or municipal uses or by a municipal applicant, as defined in ORS 537.282, for a hydroelectric project, shall take precedence over an in-stream water right when the Water Resources Department conducts a review of the proposed project in accordance with ORS 537.170. The precedence given under this section shall not apply if the in-stream water right was established pursuant to ORS 537.346 or 537.348. [1987 c.859 §11; 1995 c.416 §42]

537.354 In-stream water right subject to emergency water shortage provisions. An in-stream water right established under the provisions of ORS 537.332 to 537.360 shall

be subject to the provisions of ORS 536.700 to 536.780. [1987 c.859 §12]

537.356 Request for reservation of unappropriated water for future economic development; priority date of reservation.

(1) Any local government, local watershed council or state agency or any other individual cooperating jointly with a local government, local watershed council or state agency may request the Water Resources Commission to reserve unappropriated water for multipurpose storage for future economic development.

(2) A request under subsection (1) of this section shall be in writing on a form provided by the Water Resources Department. Before deciding whether to approve the request and initiate a rulemaking process, the commission shall request comments from any local government or watershed council within the geographic area or basin affected by the request. The comment period shall be closed not later than 120 days after the request is submitted.

(3) The priority date for any reservation established under this section shall be the date on which the commission takes action to initiate the rulemaking process. [1987 c.859 §13; 1997 c.445 §1]

537.358 Rules for reservation for future economic development; application for use of reserved water. (1) In adopting a rule under ORS 537.356 to reserve unappropriated water for multipurpose storage for future economic development, the Water Resources Commission shall include a public interest review that takes into consideration the factors described under ORS 537.170.

(2) A person requesting use of the reserved water for new storage shall submit a water right application and comply with the procedure set forth in ORS 537.140 to 537.252, except that the priority date for a storage right approved for use of reserved water shall be the date of the reservation. The commission by rule may describe a process for ensuring that the proposed use is consistent with the requirements of the rule establishing the reservation. [1987 c.859 §14; 1997 c.445 §2]

537.360 Relationship between application for in-stream water right and application for certain hydroelectric permits.

If an application is pending under this chapter for a water right permit to use water for hydroelectric purposes or under ORS 543.010 to 543.610 for a hydroelectric permit or license at the time the Water Resources Commission receives an application for an in-stream water right under ORS 537.336 for the same stream or reach of the stream, the commission shall not take any action on the application for an in-stream water right until