

the fee required under ORS 536.050 (1)(p). [Amended by 1955 c.707 §36; 1961 c.224 §12; 1963 c.378 §1; 1975 c.581 §26; 1985 c.569 §19; 1985 c.673 §30; 1995 c.416 §13; 1997 c.587 §6; 2003 c.75 §96]

537.173 Exceptions to final order; modified order. (1) Within 20 days after the Water Resources Director issues a final order under ORS 537.170 after the conclusion of a contested case hearing, any party may file exceptions to the order with the Water Resources Commission.

(2) The commission shall issue a modified order, if allowed, or deny the exceptions within 60 days after the close of the exception period under subsection (1) of this section. [1995 c.416 §14]

Note: See note under 537.153.

537.175 Time limit for issuing final order or scheduling contested case hearing; applicant request for extension. (1) Except as provided in subsection (2) of this section, the Water Resources Department shall issue a final order or schedule a contested case hearing on an application for a water right referred to in ORS 537.140 or 537.400 within 180 days after the department proceeds with the application under ORS 537.150 (5).

(2) At the request of the applicant, the department may extend the 180-day period set forth in subsection (1) of this section for a reasonable period of time.

(3) If a contested case hearing is held, the department shall issue a final order:

(a) Within 270 days after scheduling the hearing for a contested case proceeding that involves three or more parties not including the department; and

(b) Within 180 days after scheduling the hearing for all other contested case proceedings.

(4) If the applicant does not request an extension under subsection (2) of this section and the department fails to issue a proposed final order or schedule a contested case hearing on an application for a water right within 180 days after the department proceeds with the application under ORS 537.150 (5), the applicant may apply in the Circuit Court for Marion County for a writ of mandamus to compel the department to issue a final order or schedule a contested case hearing on an application for a water right. If the application is for an out-of-stream use, the writ of mandamus shall compel the department to issue a water right permit, unless the department shows by affidavit that to issue a permit may result in harm to an existing water right holder. [1995 c.416 §17]

Note: See note under 537.153.

537.180 [Amended by 1971 c.734 §78; 1985 c.673 §31; repealed by 1995 c.416 §50]

537.185 [1971 c.734 §80; repealed by 1985 c.673 §185]

537.190 Terms and conditions of approval; municipal water supplies; release of stored water. (1) The Water Resources Department may approve an application for less water than applied for, or upon terms, limitations and conditions necessary for the protection of the public interest, including terms, limitations and conditions relating to the release of water from an impoundment or diversion structure necessary to prevent rapid fluctuation in the stream level below the structure which may create a hazard to life or property, if there exists substantial reason therefor. In any event the department shall not approve an application for more water than can be applied to a beneficial use.

(2) The department may approve an application for a municipal water supply to the exclusion of all subsequent appropriations, if the exigencies of the case demand.

(3) When conditions beyond the control of the owner or operator of an impoundment or diversion structure, to which terms, limitations and conditions made as provided in subsection (1) of this section relate, threaten the safety of the structure and the release of water from the structure contrary to such terms, limitations and conditions is or may be necessary to remove the threat:

(a) The terms, limitations and conditions shall not apply to such release of water.

(b) The owner, operator or person in immediate charge of the structure shall immediately notify the department by telegraph or telephone of the situation.

(c) The owner, operator or person in immediate charge of the structure shall immediately notify, to the best of the person's ability, those persons whose life or property may be threatened by the release of water. [Amended by 1959 c.624 §3; subsection (3) enacted as 1959 c.624 §5; 1985 c.673 §32; 1995 c.416 §15]

537.200 [Amended by 1955 c.707 §37; repealed by 1971 c.734 §21]

537.210 [Repealed by 1981 c.61 §1 (537.211 enacted in lieu of 537.210)]

537.211 Issuance of permit if application approved; contents of permit; effect; rejection of application; change in permit terms. (1) The approval of an application referred to in ORS 537.140 or 537.400 shall be set forth in a water right permit issued by the Water Resources Department. The permit shall specify the details of the authorized use and shall set forth any terms, limitations and conditions as the department considers appropriate including but not limited to any applicable condition required under ORS 537.289. A copy of the permit shall be filed as a public record in the department. The permit shall be mailed to the applicant, and upon receipt of the permit the permittee