

cense if that use causes injury to any other water right or to a minimum perennial streamflow. The Water Resources Director may issue a limited license for aquifer storage and recovery purposes for a term of not more than five years. The license may be renewed if the applicant demonstrates further testing is necessary.

(3) To obtain a limited license for aquifer storage and recovery, the applicant shall provide to the Water Resources Department:

- (a) Well construction information;
- (b) Test results of the quality of the injection source water;
- (c) Test results of the quality of the receiving aquifer water;
- (d) The proposed injected water storage time, recovery rates and recovery schedule;
- (e) Preliminary hydrogeologic information including a description of the aquifer, estimated flow direction and rate of movement, allocation of surface water, springs or wells within the area affected by aquifer storage and recovery wells;
- (f) The fee established by rule by the commission pursuant to ORS 536.050 (1)(L); and
- (g) Any other information required by rule of the commission.

(4) Only after completion of a test program under a limited license issued under subsection (3) of this section may the applicant apply for a permanent aquifer storage and recovery permit. Each application for an aquifer storage and recovery permit shall be accompanied by the fee set forth in ORS 536.050 for examination of an application for a permit to store water. The Water Resources Department shall be the sole permitting agency for the project and may place conditions on the permit consistent with rules adopted by the commission, but the Department of Environmental Quality and the Oregon Health Authority may review, comment on and recommend conditions to be included on the permit. When necessary, the applicant shall obtain land use and development approval from a local government. Where existing water rights for the injection source water have been issued, the Water Resources Department shall receive comments from interested parties or agencies, but the public interest review standards shall apply only to the matters raised by the aquifer storage and recovery permit application in the same manner as any new water right application, not to the underlying water rights. If new water rights for injection source water and aquifer storage and recovery are necessary, then the public interest review standards shall apply to the new permit application in the same manner as any

new water right application. The Water Resources Director may refer policy matters to the commission for decision.

(5) The commission shall adopt rules consistent with this section to implement an aquifer storage and recovery program. The rules shall include:

- (a) Requirements for reporting and monitoring the aquifer storage and recovery project aquifer impacts and for constituents reasonably expected to be found in the injection source water.
- (b) Provisions that allow any person operating an aquifer storage and recovery project under a permit, upon approval by the Water Resources Department, to recover up to 100 percent of the water stored in the aquifer storage facility if valid scientific data gathered during operations under the limited license or permit demonstrate that the injected source water is not lost through migration or other means and that ground water otherwise present in the aquifer has not been irretrievably lost as a result of aquifer storage or retrieval. The Water Resources Department may place such other conditions on withdrawal of stored water necessary to protect the public health and environment, including conditions allowing reconsideration of the permit to comply with ORS 537.532.
- (c) The procedure for allowing the Department of Environmental Quality and the Oregon Health Authority to comment on and recommend permit conditions.
- (6) The use of water under a permit as injection source water for an aquifer storage and recovery project up to the limits allowed in subsection (5)(b) of this section shall not affect the priority date of the water right permit or otherwise affect the right evidenced by the permit.
- (7) The holder of a permit for aquifer storage and recovery shall apply for a transfer or change of use if the use of recovered water is different from that which is allowed in the source water permit or certificate.

[1995 c.487 §4; 1997 c.587 §2; 1999 c.665 §3; 2003 c.594 §6; 2009 c.595 §985]

(Appropriation of Ground Water)

537.535 Unlawful use or appropriation of ground water, including well construction and operation. (1) No person or public agency shall use or attempt to use any ground water, construct or attempt to construct any well or other means of developing and securing ground water or operate or permit the operation of any well owned or controlled by such person or public agency except upon compliance with ORS 537.505 to 537.795 and 537.992 and any applicable order