

forth in the water right or may be established by order of the Water Resources Director and shall be adjusted annually for inflation according to rules established by the Water Resources Commission. The annual fee also may be adjusted through the periodic review process established in ORS 543.085.

(b) Each holder of a hydroelectric project that produces 123.5 theoretical horsepower or less shall pay an annual fee of \$50 for that project.

(3) The fee determined in subsection (2) of this section shall apply to a project on the January 1 following the occurrence of an event enumerated as follows:

(a) A licensee or water right certificent shall begin to pay the annual fee after the final order for the reauthorized water right is issued under ORS 543A.130.

(b) Notwithstanding paragraph (a) of this subsection, if a licensee holds, on October 23, 1999, an original state hydroelectric license for which the original expiration date was or is more than five years after the expiration date of the original Federal Energy Regulatory Commission license for the project, the licensee shall begin payment of the annual fee established under this section after the expiration date of the original state hydroelectric license.

(c) A power claimant, or uncertificated claimant, licensed by the Federal Energy Regulatory Commission shall begin to pay the annual fee after the Federal Energy Regulatory Commission issues a new license. A power claimant or uncertificated claimant that received a new license from the Federal Energy Regulatory Commission within 10 years prior to October 23, 1999, shall begin to pay the annual fee on January 1, 2000.

(d) A power claimant, or uncertificated claimant, whose project is exempted from licensure by the Federal Energy Regulatory Commission or not licensed by the Federal Energy Regulatory Commission shall begin paying the annual fee under this section on January 1, 2008, for that project.

(4) No fee shall be assessed under ORS 543.710 for a project subject to an annual fee under this section. [1999 c.873 §5]

543.080 Project specific fees; summary of project specific expenditures. (1) In addition to the annual fee set forth in ORS 543.078, a holder may be required to pay project specific fees.

(2) Project specific fees are fees that compensate a state agency for the agency's reasonable and necessary oversight of a holder's implementation of the protection, mitigation and enhancement measures included in a water right for the project, a

certificate issued pursuant to ORS 468B.040 or 468B.045 or a Federal Energy Regulatory Commission license.

(3) Project specific fees shall be considered at the time of reauthorization or relicensing of a hydroelectric project and, if needed, shall be established before the proposed final order is issued under ORS 543A.115, and shall be included in the reauthorized water right or the certificate issued pursuant to ORS 468B.040 or 468B.045. In the case of power claims and uncertificated claims, project specific fees shall be considered at the time of relicensing and, if needed, shall be included in an order of the Water Resources Director amending the claim pursuant to ORS 543.092 or in a certificate issued for the project pursuant to ORS 468B.040 or 468B.045.

(4) The need for, and amount of, a project specific fee shall be based upon the following factors:

(a) Experimental or unproven nature of the proposed mitigation;

(b) Significance of the resource affected;

(c) Need for ongoing agency involvement in reviewing the effectiveness of the proposed measure;

(d) Need for agency personnel to perform field work or research efforts; and

(e) Overall nature of the protection, mitigation or enhancement measures, including but not limited to consideration of whether the measure is simple, complex, closed-ended or adaptive and whether the measure is determined solely by the holder or by an agency or public committee.

(5) A project specific fee may not be assessed for:

(a) Work on projects other than the project for which the fee is established;

(b) Work that is paid for by the annual hydroelectric fee;

(c) Development of statewide hydroelectric policy;

(d) Coordination of statewide activities within an agency;

(e) Costs to the agency of Attorney General assistance associated with ongoing litigation; or

(f) Routine monitoring of compliance with nonadaptive management provisions of the water right, an uncertificated claim, a certificate issued pursuant to ORS 468B.040 or 468B.045 or a Federal Energy Regulatory Commission license.

(6) A project specific fee shall be time-limited. One year before expiration of a project specific fee, the holder and any affected agency shall review the need, if any, to