

WATER RIGHTS BEFORE 1909**539.005 Purpose of chapter; rules.**

(1) The Legislative Assembly declares that it is the purpose of this chapter to set forth the procedures for carrying out a general stream adjudication in Oregon.

(2) In accordance with the applicable provisions of ORS chapter 183, the Water Resources Director shall adopt rules necessary to carry out the provisions of this chapter. [1989 c.691 §§2,3]

539.010 Protection of water rights vested or initiated prior to February 24, 1909.

(1) Actual application of water to beneficial use prior to February 24, 1909, by or under authority of any riparian proprietor or the predecessors in interest of the riparian proprietor, shall be deemed to create in the riparian proprietor a vested right to the extent of the actual application to beneficial use; provided, such use has not been abandoned for a continuous period of two years.

(2) Where any riparian proprietor, or any person under authority of any riparian proprietor or the predecessor in interest of the riparian proprietor, was, on February 24, 1909, engaged in good faith in the construction of works for the application of water to a beneficial use, the right to take and use such water shall be deemed vested in the riparian proprietor; provided, that the works were completed and the water devoted to a beneficial use within a reasonable time after February 24, 1909. The Water Resources Director, in the manner provided in subsection (5) of this section, may determine the time within which the water shall be devoted to a beneficial use. The right to water shall be limited to the quantity actually applied to a beneficial use within the time so fixed by the director.

(3) Nothing contained in the Water Rights Act (as defined in ORS 537.010) shall affect relative priorities to the use of water among parties to any decree of the courts rendered in causes determined or pending prior to February 24, 1909.

(4) The right of any person to take and use water shall not be impaired or affected by any provisions of the Water Rights Act (as defined in ORS 537.010) where appropriations were initiated prior to February 24, 1909, and such appropriators, their heirs, successors or assigns did, in good faith and in compliance with the laws then existing, commence the construction of works for the application of the water so appropriated to a beneficial use, and thereafter prosecuted such work diligently and continuously to completion. However, all such rights shall be adjudicated in the manner provided in this chapter.

(5) The director shall, for good cause shown upon the application of any appropriator or user of water under an appropriation of water made prior to February 24, 1909, or in the cases mentioned in subsections (2) and (4) of this section, where actual construction work was commenced prior to that time or within the time provided in law then existing, prescribe the time within which the full amount of the water appropriated shall be applied to a beneficial use. In determining said time the director shall grant a reasonable time after the construction of the works or canal or ditch used for the diversion of the water, and in doing so, the director shall take into consideration the cost of the appropriation and application of the water to a beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demands therefor, and the income or use that may be required to provide fair and reasonable returns upon the investment. For good cause shown the director may extend the time.

(6) Where appropriations of water attempted before February 24, 1909, were undertaken in good faith, and the work of construction or improvement thereunder was in good faith commenced and diligently prosecuted, such appropriations shall not be set aside or voided in proceedings under this chapter because of any irregularity or insufficiency of the notice by law, or in the manner of posting, recording or publication thereof.

(7) In any proceeding to adjudicate water rights under this chapter, the Water Resources Department may adjudicate federal reserved rights for the water necessary to fulfill the primary purpose of the reservation or any federal water right not acquired under ORS chapter 537 or ORS 540.510 to 540.530.

(8) All rights granted or declared by the Water Rights Act (as defined in ORS 537.010) shall be adjudicated and determined in the manner and by the tribunals provided therein. The Water Rights Act shall not be held to bestow upon any person any riparian rights where no such rights existed prior to February 24, 1909. [Amended by 1989 c.691 §6; 1993 c.157 §1]

539.015 Certification of statements of claimants; oaths. Each claimant or owner who files a statement and proof of claim form or a registration statement shall be required to certify to the statements of the claimant or owner under oath. The Water Resources Director or the authorized assistant of the director may administer such oaths, which shall be done without charge, as also shall