

(i) The flow rate and duty of water allowed.

(4) In establishing the flow rate and duty of water allowed, the department may consider a general basin-wide standard, but first shall evaluate information submitted by the applicant to demonstrate the need for a flow rate and duty higher than the general standard. If the applicant provides such information, the department shall authorize the requested rate and duty except upon specific findings related to the application to support a determination that a lesser amount is needed. If the applicant does not provide information to demonstrate the need for a flow rate and duty higher than the general basin-wide standard, the department may apply the general standards without specific findings related to the application.

(5) The department shall mail copies of the proposed final order to the applicant and to persons who have requested copies and paid the fee required under ORS 536.050 (1)(p). The department also shall publish notice of the proposed final order by publication in the weekly notice published by the department.

(6) Any person who supports a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing and shall be accompanied by the fee established under ORS 536.050 (1)(n).

(7) Any person may submit a protest against a proposed final order. A protest shall be in writing and shall include:

(a) The name, address and telephone number of the protestant;

(b) A description of the protestant's interest in the proposed final order, and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

(c) A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest;

(d) A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;

(e) Any citation of legal authority supporting the protest, if known; and

(f) The protest fee required under ORS 536.050.

(8) Requests for standing and protests on the proposed final order shall be submitted within 45 days after publication of the notice of the proposed final order in the weekly no-

tice published by the department. Any person who asks to receive a copy of the department's final order shall submit to the department the fee required under ORS 536.050 (1)(p), unless the person has previously requested copies and paid the required fee under ORS 537.620 (7), the person is a protestant and has paid the fee required under ORS 536.050 (1)(j) or the person has standing and has paid the fee under ORS 536.050 (1)(n).

(9) Within 60 days after the close of the period for receiving protests, the Water Resources Director shall:

(a) Issue a final order as provided under ORS 537.625 (1); or

(b) Schedule a contested case hearing if a protest has been submitted and if:

(A) Upon review of the issues, the director finds that there are significant disputes related to the proposed use of water; or

(B) Within 30 days after the close of the period for submitting protests, the applicant requests a contested case hearing. [1995 c.416 §25; 1995 c.549 §1a; 1997 c.446 §7; 1997 c.587 §10; 2007 c.188 §3; 2009 c.819 §§10,17; 2013 c.644 §10]

**537.622 Contested case hearing; parties; issues.** (1) Within 45 days after the Water Resources Director schedules a contested case hearing under ORS 537.621 (9), the Water Resources Department shall hold the contested case hearing. The issues to be considered in the contested case hearing shall be limited to issues identified by the administrative law judge.

(2) Notwithstanding the provisions of ORS chapter 183 pertaining to contested case proceedings, the parties to any contested case hearing initiated under this section shall be limited to:

(a) The applicant;

(b) Any person who timely filed a protest; and

(c) Any person who timely filed a request for standing under ORS 537.621 (6) and who requests to intervene in the contested case hearing prior to the start of the proceeding.

(3) The contested case proceeding shall be conducted in accordance with the applicable provisions of ORS chapter 183 except:

(a) As provided in subsections (1) and (2) of this section; and

(b) An interlocutory appeal under ORS 183.480 (3) shall not be allowed.

(4) Each person submitting a protest or a request for standing shall raise all reasonably ascertainable issues and submit all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascer-