

of any claimant for a period of five successive years ending after August 20, 1957, to pay the annual license fee as required by ORS 543.710, shall be conclusive evidence of the abandonment by the claimant of the claim and of all right to water for power purposes in connection with such claim.

(2) When a claim is abandoned under the provisions of subsection (1) of this section, or whenever a claimant has voluntarily authorized, in writing, the cancellation of a claim or the water right in connection therewith, the Water Resources Commission shall:

(a) Cancel the claim on the records of the Water Resources Department.

(b) Cancel any permit to appropriate water or any water right certificate issued in connection with such claim. [1957 c.333 §3; 1979 c.67 §7; 1985 c.673 §164]

USE OF EXISTING WATER RIGHT FOR HYDROELECTRIC PURPOSES

543.760 Definition of water right. As used in ORS 543.765, "water right" means a water use established by an adjudication under ORS chapter 539 as evidenced by a court decree or a certificated ground water or surface water right that is issued for some use other than for hydroelectric power and that serves as the underlying water right for an application to use water for hydroelectric purposes. [2007 c.657 §1]

Note: 543.760 and 543.765 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 543 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

543.765 Certificate to use water for hydroelectric purposes within artificial delivery system; expedited application process; certificate conditions; annual payments; fees. (1) Notwithstanding ORS 537.145 and ORS chapter 543, the holder of a water right may apply to the Water Resources Department for a certificate to use water for hydroelectric purposes within an artificial delivery system under the applicant's existing water right. If the proposed hydroelectric project meets the applicable capacity limitation under this subsection and meets either the qualifications for a Federal Energy Regulatory Commission exemption from licensing or similar qualifications of another federal agency responsible for authorizing the project, the applicant may use the expedited application process under this section regardless of which federal agency issues the authorization. To qualify under this subsection:

(a) For a project that is to be built as part of an existing dam, the capacity may not

exceed five megawatts. Subsection (5)(b) of this section does not apply to a project described in this paragraph.

(b) For in-conduit projects, the capacity may not exceed 15 megawatts for a nonmunicipal facility or 40 megawatts for a municipal facility. Projects described in this paragraph must comply with subsection (5)(b) of this section.

(2) An application, which shall be on a form provided by the Water Resources Department, for a hydroelectric certificate under this section must include:

(a) The certificate number, or decree reference if no confirming certificate has been issued, of the applicant's existing water right associated with the proposed hydroelectric project.

(b) A copy of either a Federal Energy Regulatory Commission exemption application or a similar application submitted to the federal agency responsible for authorizing the project, if applicable.

(c) A proposed schedule of annual water use and an estimate of the maximum power generation of the proposed hydroelectric project.

(d) A statement by the applicant that the amount of water used by the proposed hydroelectric project will not exceed the amount authorized and used under the applicant's existing water right for beneficial use without waste.

(e) A statement that the applicant owns or otherwise controls the water conveyance system.

(f) An application processing fee of \$500. The department shall deposit fees collected under this section into the Water Resources Department Hydroelectric Fund established pursuant to ORS 536.015.

(g) A map or drawing and all other data concerning the proposed hydroelectric project, as may be prescribed by the department. The map or drawing must be of sufficient quality and scale to establish the location of the existing point of diversion and the proposed location of the hydroelectric project.

(h) If the water to be used for the proposed hydroelectric project is delivered by a public entity other than the applicant for a certificate under this section, a statement from that entity that the entity will be able to deliver water as described in the application.

(i) Evidence that the water has been used over the past five years according to the terms and conditions of the applicant's existing water right described in paragraph (a) of this subsection.