

(3) Subsection (2) of this section:

(a) Does not apply to a water right determined and established in an order of determination that has been stayed by the filing of a bond or irrevocable letter of credit under ORS 539.180;

(b) Does not apply to a water right transfer that includes changing the point of diversion upstream; and

(c) Does not allow a person to purchase, lease or accept a gift of a determined claim for conversion to an in-stream water right as described in ORS 537.348 (1).

(4) For purposes of determining under ORS 537.348 (5) or 540.523 (2) whether the Water Resources Department may approve a lease or temporary transfer of a determined claim, an injury to another determined claim is an injury to an existing water right. Notwithstanding ORS 537.348 (6) or 540.523 (5), the department shall deny, modify or revoke the lease or temporary transfer of a determined claim if the department determines that the lease or temporary transfer has resulted in, or is likely to result in:

(a) Injury to another determined claim or other existing water right; or

(b) Enlargement of the determined claim.

(5) The department shall revoke the lease or temporary transfer of a determined claim if a court judgment stays the determined claim.

(6) If a determined claim is removed from land by lease or temporary transfer, the land from which the determined claim is removed may not receive water during the term of the lease or temporary transfer. [2015 c.445 §1]

**Sec. 2.** (1) Section 1 of this 2015 Act is repealed January 2, 2026.

(2) Notwithstanding the repeal of section 1 of this 2015 Act by subsection (1) of this section, subject to modification or revocation under section 1 of this 2015 Act, a lease or temporary transfer of a determined claim under section 1 of this 2015 Act for a term beginning prior to January 2, 2026, may continue in effect for the term of the lease or temporary transfer. If a court judgment results in a modification of the determined claim, the parties may continue the lease or temporary transfer of all or part of the water right as modified for all or part of the original term of the lease or temporary transfer. [2015 c.445 §2]

**539.180 Bond or irrevocable letter of credit to stay operation of director's determination; notice to watermaster.** At any time after the determination of the Water Resources Director has been entered of record, the operation thereof may be stayed in whole or in part by any party by filing a bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 in the circuit court wherein the determination is pending, in such amount as the judge may prescribe, conditioned that the party will pay all damages that may accrue by reason of the determination not being enforced. Upon the filing and approval of the bond or letter of credit, the clerk of the circuit court shall transmit to the Water Resources Department a certified copy of the bond or letter of credit, which shall be recorded in the department records, and the department shall give notice thereof to the watermaster of the proper district. [Amended by 1991 c.102 §10; 1991 c.331 §79; 1997 c.631 §486]

### **539.190 Rehearing by circuit court.**

Within six months from the date of the decree of the circuit court determining the rights upon any stream, or if appealed, within six months from the date of the decree of the circuit court on the decision of the Supreme Court, the Water Resources Director or any party interested may apply to the circuit court for a rehearing upon grounds to be stated in the application. If in the discretion of the court the application states good grounds for the rehearing, the circuit court or judge shall make an order fixing a time and place when the application shall be heard. The clerk of the circuit court shall, at the expense of the petitioner, forthwith mail written notice of the application to the director and to every party interested, and state in the notice the time and place when the application will be heard. [Amended by 1981 c.178 §15]

**539.200 Conclusiveness of determinations as to water rights.** The determinations of the Water Resources Director, as confirmed or modified as provided by this chapter in proceedings, shall be conclusive as to all prior rights and the rights of all existing claimants upon the stream or other body of water lawfully embraced in the determination.

**539.210 Duty of claimants to appear and submit proof; nonappearance as forfeiture; intervention in proceedings.** Whenever proceedings are instituted for determination of rights to the use of any water, it shall be the duty of all claimants interested therein to appear and submit proof of their respective claims, at the time and in the manner required by law. Any claimant who fails to appear in the proceedings and submit proof of the claims of the claimant shall be barred and estopped from subsequently asserting any rights theretofore acquired upon the stream or other body of water embraced in the proceedings, and shall be held to have forfeited all rights to the use of the water theretofore claimed by the claimant. Any person interested in the water of any stream upon whom no service of notice has been had of the pendency of proceedings for determination of the rights to the use of water of the stream, and who has had no actual knowledge or notice of the pendency of the proceedings may, at any time prior to the expiration of one year after entry of the determination of the Water Resources Director, file a petition to intervene in the proceedings. The petition shall contain, among other things, all matters required by this chapter of claimants who have been duly served with notice of the proceedings, and also a statement that the intervenor had no actual knowledge or notice of the pendency of the proceedings.