

(f) All vested and inchoate rights to the waters of this state or to the use thereof, and the means necessary to protect such rights.

(g) The state water resources policy formulated under ORS 536.295 to 536.350 and 537.505 to 537.534.

(4) After the entry of the order specified in subsection (2) of this section, the application for a preliminary permit or for a license shall be referred to the Water Resources Director for further proceedings consistent with the commission's order. [1955 c.707 §42; 1961 c.224 §17; 1975 c.581 §28; 1985 c.569 §20; 1985 c.673 §148]

543.230 Hearings on application; rules; protest. (1) The Water Resources Commission shall, by order or rule, provide for the time and manner of hearings upon applications. However, upon request by any person made within 30 days after the Water Resources Director issues an order pertaining to cumulative impacts under ORS 543.255, the Water Resources Commission shall conduct a contested case hearing in accordance with the applicable provisions of ORS chapter 183 and any rules adopted by the commission.

(2) Every application for the appropriation of water for the generation of electricity subject to the terms of ORS 543.010 to 543.610 shall be subject to protest or remonstrance on behalf of the public, or any district organized for public purposes, or any interested private person, on the ground that the proposed construction, development or improvement would damage or destroy the use or utility of the stream or other body of water involved for other beneficial purposes, including propagation of fish, scenic, aesthetic, recreational, park, highway or other beneficial use. All protests and remonstrances under this subsection must be filed with the commission within the time specified in the notice and must be in writing and verified by the parties protesting, and a certified copy thereof shall be served upon the applicant for the permit. However, in the discretion of the administrative law judge, at the time of the hearing any interested party may make an oral protest if there exists any good reason therefor, and the administrative law judge shall allow the applicant to be heard in opposition thereto. Every protest or remonstrance under this subsection which is not filed and served as required in this subsection shall be deemed waived. [Amended by 1955 c.673 §4; 1955 c.707 §40; 1961 c.224 §18; 1993 c.544 §7; 1995 c.416 §41; 1999 c.849 §115; 2003 c.75 §98]

543.240 [Repealed by 1991 c.869 §15]

543.250 Permit; duration; transfer; cancellation; priority; terms and conditions; denial. A preliminary permit may be issued for a period not exceeding a total of three years. It shall not be transferable ex-

cept upon written approval of the Water Resources Commission, and may be canceled by order of the commission at any time upon proof to the commission's satisfaction, after hearing, that the holder is not in good faith complying with the provisions of the permit. The holder of a preliminary permit which has not been canceled shall have priority of right to make application for a license covering the project for which the preliminary permit was issued, within the term of the permit or any lawful extension thereof. Except as otherwise specified in ORS 543.010 to 543.610, the commission may fix the terms and conditions of any preliminary permit issued thereunder, and each preliminary permit issued shall set forth all the terms and conditions. The commission may decline to grant any application for a preliminary permit. [Amended by 1985 c.673 §149; 1993 c.63 §1]

543.255 Determination of cumulative impacts of proposed hydroelectric power projects; consolidated review; applicability. (1) Whenever the Water Resources Department receives an application to appropriate water for a new hydroelectric project under ORS 537.140 to 537.320 or for a hydroelectric permit or license under ORS 543.010 to 543.610, the department shall determine whether the impacts of the project would be cumulative with:

(a) Impacts of other proposed hydroelectric projects for which an application is pending before the department; or

(b) Existing hydroelectric projects in the same river basin.

(2) If the department determines that there is no possibility that the hydroelectric projects proposed in pending applications or existing projects may have cumulative effects, the Water Resources Director shall issue an order setting forth the department's determination that there are no cumulative effects and the department's decision that consolidated review is not required.

(3) If the department determines that pending applications or existing projects may have cumulative effects, the Water Resources Commission shall conduct a consolidated review before approving any application in the affected river basin. A consolidated review process shall be conducted as a contested case hearing under the applicable provisions of ORS chapter 183 and shall include a study of the individual and cumulative effects of proposed hydroelectric projects for which applications are pending before the department and existing hydroelectric projects. In its final order on an application, the commission or the department shall include its findings on cumulative impacts. The findings of the commission or department under this section must be sufficient to support the