

(3) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which a permit for municipal use is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

(a) The holder shows good cause. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right;

(b) The extension of time is conditioned to require that the holder submit, and obtain department approval of, a water management and conservation plan;

(c) The extension of time is conditioned to provide that the holder may divert the undeveloped portion of the permit only upon approval by the department of the water management and conservation plan; and

(d) For the first extension issued after June 29, 2005, for a permit for municipal use issued before November 2, 1998, the department finds that the undeveloped portion of the permit is conditioned to maintain, in the portions of waterways affected by water use under the permit, the persistence of fish species listed as sensitive, threatened or endangered under state or federal law. The department shall base its finding on existing data and upon the advice of the State Department of Fish and Wildlife. An existing fish protection agreement between the permit holder and a state or federal agency that includes conditions to maintain the persistence of any listed fish species in the affected portion of the waterway is conclusive for purposes of the finding.

(4) Except as provided in ORS 537.240 and 537.248 and subsection (3) of this section, the Water Resources Department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year limit established in subsection (2) of this section within which irrigation or other works shall be completed or the right perfected. In determining the extension, the department shall give due weight to the considerations described under ORS 539.010 (5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

(5) Except as provided in subsection (6) of this section and ORS 537.409, upon completion of beneficial use as required under this section, the holder of a permit shall hire a water right examiner certified under ORS 537.798 to survey the appropriation. Within one year after application of water to a beneficial use or the beneficial use date allowed in the permit, the holder shall submit a map of the survey as required by the Water Resources Department, that shall accompany the request for a water right certificate submitted to the department under ORS 537.250. If any property described in the permit is not included in the request for a water right certificate, the holder shall state the identity of the record owner of that property.

(6) The Water Resources Director may waive the requirement under subsection (5) of this section that a holder of a permit hire a water right examiner certified under ORS 537.798 if:

(a) The permit is a supplemental water right that shares the same distribution system and same place of use as the primary water right; and

(b) The department determines that there is sufficient information in the records of the department to determine proof of beneficial use.

(7) Notwithstanding ORS 537.410, for purposes of obtaining a water right certificate under ORS 537.250 for a supplemental water right, the holder of a permit shall have a facility capable of handling the full rate and duty of water requested from the supplemental source and be otherwise ready, willing and able to use the amount of water requested, up to the amount of water approved in the water right permit. To obtain a certificate for a supplemental water right, the holder is not required to have actually used water from the supplemental source if:

(a) Water was available from the source of the primary water right and the primary water right was used pursuant to the terms of the primary water right; or

(b) The nonuse of water from the supplemental source occurred during a period of time within which the exercise of the supplemental water right permit was not necessary due to climatic conditions. [Amended by 1985 c.617 §1; 1985 c.673 §201; 1987 c.542 §4; 1995 c.367 §2; 1995 c.416 §35; 1995 c.473 §5; 1997 c.446 §4; 1997 c.502 §1; 1997 c.557 §1; 1999 c.453 §1; 1999 c.665 §2; 2005 c.410 §1; 2017 c.704 §1]

537.240 Federal permit; time for obtaining; cancellation; time for beginning and completing work. (1) In any case where a permit from the Federal Energy Regulatory Commission is or shall be required in connection with the development of the applicant's proposed project, the ap-