

**PROPOSED AMENDMENTS TO
B-ENGROSSED HOUSE BILL 2259**

1 On page 1 of the printed B-engrossed bill, delete lines 6 through 27 and
2 delete pages 2 through 13 and insert:

3 **“SECTION 1.** ORS 536.050, as amended by section 12, chapter 819, Oregon
4 Laws 2009, is amended to read:

5 “536.050. (1) The Water Resources Department may collect the following
6 fees in advance:

7 “(a) For examining an application for a permit:

8 “(A) To appropriate water, except as provided under ORS 543.280 for an
9 application for a hydroelectric project:

10 “(i) A base fee of [~~\$500~~] **\$800** for an appropriation of water through a
11 single use, point of diversion or point of appropriation;

12 “(ii) [~~\$200~~] **\$300** for the first second-foot or fraction thereof appropriated
13 under the permit;

14 “(iii) [~~\$100~~] **\$300** for each additional second-foot or fraction thereof ap-
15 propriated under the permit;

16 “(iv) [~~\$200~~] **\$300** for each additional use, point of diversion or point of
17 appropriation included in the application; [*and*]

18 “(v) If appropriating stored water, [~~\$20~~] **\$30** for the first acre-foot or
19 fraction thereof up to 20 acre-feet, plus \$1 for each additional acre-foot or
20 fraction thereof[.]; **and**

21 **“(vi) If appropriating ground water, in addition to any other fees,**
22 **\$350 for each application filed.**

1 “(B) To store water under ORS 537.400 or 537.534 (4):
2 “(i) A base fee of [~~\$500~~] **\$800**; [*and*]
3 “(ii) [~~\$20~~] **\$30** for the first acre-foot or fraction thereof up to 20 acre-feet,
4 plus \$1 for each additional acre-foot or fraction thereof[.]; **and**
5 **“(iii) \$125 for each additional storage location.**
6 “(C) To exclusively appropriate stored water:
7 “(i) A base fee of [~~\$250~~] **\$450**; and
8 “(ii) [~~\$15~~] **\$30** for the first acre-foot or fraction thereof up to [~~10~~] **20**
9 acre-feet, plus \$1 for each additional acre-foot or fraction thereof.
10 “[*b*] For recording a permit to appropriate or store water, \$300.]
11 **“(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625**
12 **to appropriate or store water:**
13 **“(A) A base fee of \$450 for recording the permit; and**
14 **“(B) An additional fee of \$575 if the permit is issued pursuant to a**
15 **final order that contains provisions requested by the applicant for**
16 **mitigating impacts to the proposed water source.**
17 “(c) For filing and recording the assignment or partial assignment of a
18 water right application, permit or license under ORS 537.220 or 537.635,
19 [~~\$50~~] **\$85**.
20 “(d) For copying records in the department, \$2 for the first page and 50
21 cents for each additional page.
22 “(e) For certifying copies, documents, records or maps, \$10 for each cer-
23 tificate.
24 “(f) For a blueprint copy of any map or drawing, the actual cost of the
25 work.
26 “(g) For a computer-generated map, the actual cost of the work.
27 “(h) For examining an application for approval of a change to an existing
28 water right or permit:
29 **“(A) A base fee of [~~\$400~~] \$1,000 for a change to a single water right or**
30 **permit;**

1 “(B) [~~\$400~~] **\$800** for each additional type of change requested;

2 “(C) For a request for a change in place of use or type of use or for a
3 water exchange under ORS 540.533, [~~\$200~~] **\$300** for each second-foot or frac-
4 tion thereof requested beyond the first second-foot; [*and*]

5 “(D) [~~\$200~~] **\$450** for each additional water right or permit included in the
6 application[.]; **and**

7 “(E) **An additional fee of \$350 per application, if the application is**
8 **for an additional point of appropriation, a change in a point of appro-**
9 **priation or a change from surface water to ground water or for sub-**
10 **stitution as described in ORS 540.524.**

11 “(i) For examining an application for a temporary change in place of use
12 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
13 temporary change in place of use, a change in the point of diversion to allow
14 for the appropriation of ground water or a change of a primary right to a
15 supplemental right under ORS 540.570, a base fee of [~~\$200~~] **\$700** for the first
16 water right or permit, plus [~~\$50~~] **\$225** for each additional water right or
17 permit included in the application and:

18 “(A) For nonirrigation uses, [~~\$80~~] **\$175** for each second-foot or fraction
19 thereof requested beyond the first second-foot; or

20 “(B) For irrigation uses, [~~\$1~~] **\$2** per acre of land irrigated or, if the ap-
21 plication and required map are submitted to the department in a
22 department-approved digital format, [~~25~~] **50** cents per acre of land irrigated.

23 “[*j*] *For submitting a protest to the department, \$350.*]

24 “(j) **For submitting a protest to the department:**

25 “(A) **\$700 if the protest is by a nonapplicant; and**

26 “(B) **\$350 if the protest is by an applicant.**

27 “(k) For filing an application for extension of time within which irri-
28 gation or other works shall be completed or a water right perfected, [~~\$350~~]
29 **\$575.**

30 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-

1 established by rule by the Water Resources Commission.

2 “(m) For filing, examining and certifying a petition under ORS 541.329,
3 [~~\$250~~] **\$350** plus 10 cents per acre of water involved in the application. For
4 purposes of computing this fee, when any acreage within a quarter quarter
5 of a section is involved, the 10 cents per acre shall apply to all acres in that
6 quarter quarter of a section. Notwithstanding the fee amount established in
7 this paragraph, a district notifying the department under ORS 541.327 (4)
8 shall pay the actual cost of filing, examining and certifying the petition.

9 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120,
10 [~~\$100~~] **\$200**.

11 “(o) For participating in a contested case proceeding under ORS 537.170,
12 537.622 or 543A.130, [~~\$250~~] **\$500**.

13 “(p) Except for an applicant, for obtaining a copy of both a proposed final
14 order and a final order for a water right application under ORS 537.140 to
15 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
16 under ORS 537.230, 537.248 or 537.630, [~~\$10~~] **\$25**.

17 “(q) For examining an application to store water under ORS 537.409:

18 “(A) A base fee of [~~\$80~~] **\$350**; and

19 “(B) [~~\$20~~] **\$30** for each acre-foot or fraction thereof.

20 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
21 the amount established by the Water Resources Director under ORS
22 543A.410.

23 “[~~(s) For examining an application for a substitution made under ORS~~
24 ~~540.524, \$280.~~]

25 “[~~(t) For examining an application for an allocation of conserved water~~
26 ~~under ORS 537.455 to 537.500, \$700.~~]

27 “**(s) For examining an application for a substitution made under**
28 **ORS 540.524:**

29 “**(A) A base fee of \$725 for the first well substitution; and**

30 “**(B) A fee of \$350 for each additional well substitution.**

1 “(t) For examining an application for an allocation of conserved
2 water under ORS 537.455 to 537.500:

3 “(A) A base fee of \$1,000 for the first water right that is part of the
4 allocation; and

5 “(B) An additional fee of \$350 for each water right that is part of
6 the allocation beyond the first water right.

7 “(u) For submitting a water management and conservation plan pursuant
8 to rules of the commission:

9 “(A) [~~\$250~~] **\$500**, if the plan is submitted by an agricultural water sup-
10 plier;

11 “(B) [~~\$500~~] **\$900**, if the plan is submitted by a municipal water supplier
12 serving a population of 1,000 or fewer persons; or

13 “(C) [~~\$1,000~~] **\$1,800**, if the plan is submitted by a municipal water supplier
14 serving a population of more than 1,000 persons.

15 “(v) For examining a new application for an in-stream water right lease
16 under ORS 537.348:

17 “(A) [~~\$200~~] **\$450** for an application for a lease with four or more land-
18 owners or four or more water rights; or

19 “(B) [~~\$100~~] **\$300** for all other applications.

20 “(w) For examining an application for an in-stream water right lease re-
21 newal, [~~\$50~~] **\$110**.

22 “(x) For submitting a claim of beneficial use under a permit or
23 transfer having a priority date of July 9, 1987, or later, **\$175**.

24 “(y) For submitting a request no later than 60 days after cancella-
25 tion of a permit under ORS 537.260 to reinstate the permit, **\$450**.

26 “(z) For submitting a request for a basin program exception under
27 ORS 536.295, **\$575**.

28 “(2)(a) The department may charge a dam owner an annual fee
29 based upon the dam’s hazard rating as determined by the department.
30 The fees the department may charge the dam owner are:

1 **“(A) \$85 for a dam with a low hazard rating.**
2 **“(B) \$170 for a dam with a significant hazard rating.**
3 **“(C) \$575 for a dam with a high hazard rating.**
4 **“(D) If the dam owner fails to pay an annual fee on or before six**
5 **months after the billing date, a late fee of \$100.**
6 **“(b) If a dam owner fails to pay an annual fee or a late fee charged**
7 **by the department, the department may, after giving the dam owner**
8 **notice by certified mail, place a lien on the real property where the**
9 **dam is located for the fees owed by the dam owner.**
10 **“[(2)] (3) Notwithstanding the fees established under subsection (1) of this**
11 **section, the commission may establish lower examination and permit fees by**
12 **rule for:**
13 **“(a) The right to appropriate water for a storage project of five acre-feet**
14 **or less; or**
15 **“(b) The right to appropriate water for the purpose of allowing the ap-**
16 **plicant to water livestock outside of a riparian area, as that term is defined**
17 **in ORS 541.890.**
18 **“[(3)(a)] (4)(a) The director may refund all or part of a fee paid to the**
19 **department under this section if the director determines that a refund of the**
20 **fee is appropriate in the interests of fairness to the public or necessary to**
21 **correct an error of the department.**
22 **“(b) The director may refund all or part of the protest fee described in**
23 **subsection (1)(j) of this section to the legal owner or occupant who filed a**
24 **protest under ORS 540.641 if an order of the Water Resources Commission**
25 **establishes that all or part of a water right has not been canceled or modi-**
26 **fied under ORS 540.610 to 540.650.**
27 **“[(4)] (5) The director may waive all or part of a fee for a change to a**
28 **water right permit under ORS 537.211 (4), a change to a water right subject**
29 **to transfer under ORS 540.520 or 540.523 or an allocation of conserved water**
30 **under ORS 537.470, if the change or allocation of conserved water is:**

1 “(a) Made pursuant to ORS 537.348;

2 “(b) Necessary to complete a project funded under ORS 541.932; or

3 “(c) Approved by the State Department of Fish and Wildlife as a change
4 or allocation of conserved water that will result in a net benefit to fish and
5 wildlife habitat.

6 “[(5)] (6) Notwithstanding the fees established pursuant to this section,
7 the commission may adopt by rule reduced fees for persons submitting ma-
8 terials to the department in a digital format approved by the department.

9 “[(6)] (7) All moneys received under this section, less any amounts re-
10 funded under subsection [(3)] (4) of this section, shall be deposited in the
11 Water Resources Department Water Right Operating Fund.

12 “[(7)] (8) Notwithstanding subsection [(6)] (7) of this section, all fees re-
13 ceived by the department for power purposes under ORS 543.280 shall be de-
14 posited in the Water Resources Department Hydroelectric Fund established
15 by ORS 536.015.

16 “**SECTION 2.** ORS 536.050, as amended by section 12, chapter 819, Oregon
17 Laws 2009, and by section 1 of this 2013 Act, is amended to read:

18 “536.050. (1) The Water Resources Department may collect the following
19 fees in advance:

20 “(a) For examining an application for a permit:

21 “(A) To appropriate water, except as provided under ORS 543.280 for an
22 application for a hydroelectric project:

23 “(i) A base fee of [\$800] **\$700** for an appropriation of water through a
24 single use, point of diversion or point of appropriation;

25 “(ii) [\$300] **\$250** for the first second-foot or fraction thereof appropriated
26 under the permit;

27 “(iii) [\$300] **\$250** for each additional second-foot or fraction thereof ap-
28 propriated under the permit;

29 “(iv) [\$300] **\$250** for each additional use, point of diversion or point of
30 appropriation included in the application;

1 “(v) If appropriating stored water, [~~\$30~~] **\$25** for the first acre-foot or
2 fraction thereof up to 20 acre-feet, plus \$1 for each additional acre-foot or
3 fraction thereof; and

4 “(vi) If appropriating ground water, in addition to any other fees, [~~\$350~~]
5 **\$300** for each application filed.

6 “(B) To store water under ORS 537.400 or 537.534 (4):

7 “(i) A base fee of [~~\$800~~] **\$700**;

8 “(ii) [~~\$30~~] **\$25** for the first acre-foot or fraction thereof up to 20 acre-feet,
9 plus \$1 for each additional acre-foot or fraction thereof; and

10 “(iii) [~~\$125~~] **\$100** for each additional storage location.

11 “(C) To exclusively appropriate stored water:

12 “(i) A base fee of [~~\$450~~] **\$400**; and

13 “(ii) [~~\$30~~] **\$25** for the first acre-foot or fraction thereof up to 20 acre-feet,
14 plus \$1 for each additional acre-foot or fraction thereof.

15 “(b) For a permit issued under ORS 537.147, 537.211, 537.409 or 537.625 to
16 appropriate or store water:

17 “(A) A base fee of [~~\$450~~] **\$400** for recording the permit; and

18 “(B) An additional fee of [~~\$575~~] **\$500** if the permit is issued pursuant to
19 a final order that contains provisions requested by the applicant for miti-
20 gating impacts to the proposed water source.

21 “(c) For filing and recording the assignment or partial assignment of a
22 water right application, permit or license under ORS 537.220 or 537.635,
23 [~~\$85~~] **\$75**.

24 “(d) For copying records in the department, \$2 for the first page and 50
25 cents for each additional page.

26 “(e) For certifying copies, documents, records or maps, \$10 for each cer-
27 tificate.

28 “(f) For a blueprint copy of any map or drawing, the actual cost of the
29 work.

30 “(g) For a computer-generated map, the actual cost of the work.

1 “(h) For examining an application for approval of a change to an existing
2 water right or permit:

3 “(A) A base fee of [~~\$1,000~~] **\$900** for a change to a single water right or
4 permit;

5 “(B) [~~\$800~~] **\$700** for each additional type of change requested;

6 “(C) For a request for a change in place of use or type of use or for a
7 water exchange under ORS 540.533, [~~\$300~~] **\$250** for each second-foot or frac-
8 tion thereof requested beyond the first second-foot;

9 “(D) [~~\$450~~] **\$400** for each additional water right or permit included in the
10 application; and

11 “(E) An additional fee of [~~\$350~~] **\$300** per application, if the application is
12 for an additional point of appropriation, a change in a point of appropriation
13 or a change from surface water to ground water or for substitution as de-
14 scribed in ORS 540.524.

15 “(i) For examining an application for a temporary change in place of use
16 under ORS 540.523, for a temporary transfer under ORS 540.585 or for a
17 temporary change in place of use, a change in the point of diversion to allow
18 for the appropriation of ground water or a change of a primary right to a
19 supplemental right under ORS 540.570, a base fee of [~~\$700~~] **\$600** for the first
20 water right or permit, plus [~~\$225~~] **\$200** for each additional water right or
21 permit included in the application and:

22 “(A) For nonirrigation uses, [~~\$175~~] **\$150** for each second-foot or fraction
23 thereof requested beyond the first second-foot; or

24 “(B) For irrigation uses, \$2 per acre of land irrigated or, if the application
25 and required map are submitted to the department in a department-approved
26 digital format, 50 cents per acre of land irrigated.

27 “(j) For submitting a protest to the department:

28 “(A) [~~\$700~~] **\$600** if the protest is by a nonapplicant; and

29 “(B) [~~\$350~~] **\$300** if the protest is by an applicant.

30 “(k) For filing an application for extension of time within which irri-

1 gation or other works shall be completed or a water right perfected, [~~\$575~~
2 **\$500**.

3 “(L) For a limited license under ORS 537.143 or 537.534 (2), the fee es-
4 tablished by rule by the Water Resources Commission.

5 “(m) For filing, examining and certifying a petition under ORS 541.329,
6 [~~\$350~~] **\$300** plus 10 cents per acre of water involved in the application. For
7 purposes of computing this fee, when any acreage within a quarter quarter
8 of a section is involved, the 10 cents per acre shall apply to all acres in that
9 quarter quarter of a section. Notwithstanding the fee amount established in
10 this paragraph, a district notifying the department under ORS 541.327 (4)
11 shall pay the actual cost of filing, examining and certifying the petition.

12 “(n) For requesting standing under ORS 537.153, 537.621 or 543A.120,
13 [~~\$200~~] **\$150**.

14 “(o) For participating in a contested case proceeding under ORS 537.170,
15 537.622 or 543A.130, [~~\$500~~] **\$350**.

16 “(p) Except for an applicant, for obtaining a copy of both a proposed final
17 order and a final order for a water right application under ORS 537.140 to
18 537.252, 537.505 to 537.795 or 543A.005 to 543A.300 or an extension issued
19 under ORS 537.230, 537.248 or 537.630, [~~\$25~~] **\$20**.

20 “(q) For examining an application to store water under ORS 537.409:

21 “(A) A base fee of [~~\$350~~] **\$300**; and

22 “(B) [~~\$30~~] **\$25** for each acre-foot or fraction thereof.

23 “(r) For submitting a notice of intent under ORS 543A.030 or 543A.075,
24 the amount established by the Water Resources Director under ORS
25 543A.410.

26 “(s) For examining an application for a substitution made under ORS
27 540.524:

28 “(A) A base fee of [~~\$725~~] **\$630** for the first well substitution; and

29 “(B) A fee of [~~\$350~~] **\$300** for each additional well substitution.

30 “(t) For examining an application for an allocation of conserved water

1 under ORS 537.455 to 537.500:

2 “(A) A base fee of [~~\$1,000~~] **\$850** for the first water right that is part of the
3 allocation; and

4 “(B) An additional fee of [~~\$350~~] **\$300** for each water right that is part of
5 the allocation beyond the first water right.

6 “(u) For submitting a water management and conservation plan pursuant
7 to rules of the commission:

8 “(A) [~~\$500~~] **\$400**, if the plan is submitted by an agricultural water sup-
9 plier;

10 “(B) [~~\$900~~] **\$800**, if the plan is submitted by a municipal water supplier
11 serving a population of 1,000 or fewer persons; or

12 “(C) [~~\$1,800~~] **\$1,600**, if the plan is submitted by a municipal water supplier
13 serving a population of more than 1,000 persons.

14 “(v) For examining a new application for an in-stream water right lease
15 under ORS 537.348:

16 “(A) [~~\$450~~] **\$400** for an application for a lease with four or more land-
17 owners or four or more water rights; or

18 “(B) [~~\$300~~] **\$250** for all other applications.

19 “(w) For examining an application for an in-stream water right lease re-
20 newal, [~~\$110~~] **\$100**.

21 “(x) For submitting a claim of beneficial use under a permit or transfer
22 having a priority date of July 9, 1987, or later, [~~\$175~~] **\$150**.

23 “(y) For submitting a request no later than 60 days after cancellation of
24 a permit under ORS 537.260 to reinstate the permit, [~~\$450~~] **\$400**.

25 “(z) For submitting a request for a basin program exception under ORS
26 536.295, [~~\$575~~] **\$500**.

27 “(2)(a) The department may charge a dam owner an annual fee based upon
28 the dam’s hazard rating as determined by the department. The fees the de-
29 partment may charge the dam owner are:

30 “(A) [~~\$85~~] **\$75** for a dam with a low hazard rating.

1 “(B) [~~\$170~~] **\$150** for a dam with a significant hazard rating.

2 “(C) [~~\$575~~] **\$500** for a dam with a high hazard rating.

3 “(D) If the dam owner fails to pay an annual fee on or before six months
4 after the billing date, a late fee of \$100.

5 “(b) If a dam owner fails to pay an annual fee or a late fee charged by
6 the department, the department may, after giving the dam owner notice by
7 certified mail, place a lien on the real property where the dam is located for
8 the fees owed by the dam owner.

9 “(3) Notwithstanding the fees established under subsection (1) of this
10 section, the commission may establish lower examination and permit fees by
11 rule for:

12 “(a) The right to appropriate water for a storage project of five acre-feet
13 or less; or

14 “(b) The right to appropriate water for the purpose of allowing the ap-
15 plicant to water livestock outside of a riparian area, as that term is defined
16 in ORS 541.890.

17 “(4)(a) The director may refund all or part of a fee paid to the department
18 under this section if the director determines that a refund of the fee is ap-
19 propriate in the interests of fairness to the public or necessary to correct
20 an error of the department.

21 “(b) The director may refund all or part of the protest fee described in
22 subsection (1)(j) of this section to the legal owner or occupant who filed a
23 protest under ORS 540.641 if an order of the Water Resources Commission
24 establishes that all or part of a water right has not been canceled or modi-
25 fied under ORS 540.610 to 540.650.

26 “(5) The director may waive all or part of a fee for a change to a water
27 right permit under ORS 537.211 (4), a change to a water right subject to
28 transfer under ORS 540.520 or 540.523 or an allocation of conserved water
29 under ORS 537.470, if the change or allocation of conserved water is:

30 “(a) Made pursuant to ORS 537.348;

1 “(b) Necessary to complete a project funded under ORS 541.932; or

2 “(c) Approved by the State Department of Fish and Wildlife as a change
3 or allocation of conserved water that will result in a net benefit to fish and
4 wildlife habitat.

5 “(6) Notwithstanding the fees established pursuant to this section, the
6 commission may adopt by rule reduced fees for persons submitting materials
7 to the department in a digital format approved by the department.

8 “(7) All moneys received under this section, less any amounts refunded
9 under subsection (4) of this section, shall be deposited in the Water Re-
10 sources Department Water Right Operating Fund.

11 “(8) Notwithstanding subsection (7) of this section, all fees received by
12 the department for power purposes under ORS 543.280 shall be deposited in
13 the Water Resources Department Hydroelectric Fund established by ORS
14 536.015.

15 “**SECTION 3.** ORS 537.150, as amended by section 13, chapter 819, Oregon
16 Laws 2009, is amended to read:

17 “537.150. (1) Within 15 days after receiving an application, the Water
18 Resources Department shall determine whether the application contains the
19 information listed under ORS 537.140 (1) and is complete and not defective,
20 including the payment of all fees required under ORS 537.140 (5). If the de-
21 partment determines that the application is incomplete or defective or that
22 not all fees have been paid, the department shall return the fees paid and the
23 application.

24 “(2) Upon determining that an application contains the information listed
25 under ORS 537.140 (1) and is complete and not defective, the department shall
26 indorse on the application the date upon which the application was received
27 at the department, which shall be the priority date for any water right issued
28 in response to the application. All applications that comply with the pro-
29 visions of law shall be recorded in a suitable book kept for that purpose.

30 “(3) If an application is complete and not defective, the department shall

1 determine whether the proposed use is prohibited by ORS chapter 538. If the
2 proposed use is prohibited by ORS chapter 538, the department shall reject
3 the application and return all fees to the applicant with an explanation of
4 the statutory prohibition.

5 “(4) If the proposed use is not prohibited by ORS chapter 538, the de-
6 partment shall undertake an initial review of the application and make a
7 preliminary determination of:

8 “(a) Whether the proposed use is restricted or limited by statute or rule;

9 “(b) The extent to which water is available from the proposed source
10 during the times and in the amounts requested; and

11 “(c) Any other issue the department identifies as a result of the initial
12 review that may preclude approval of or restrict the proposed use.

13 “(5) Upon completion of the initial review and no later than 30 days after
14 determining an application to be complete and not defective as described in
15 subsection (1) of this section, the department shall notify the applicant of its
16 preliminary determinations and allow the applicant 14 days from the date
17 of mailing within which to notify the department to stop processing the ap-
18 plication or to proceed with the application. If the applicant notifies the
19 department to stop processing the application, the department shall return
20 the application and all fees paid in excess of [~~\$150~~] **\$225**. If the department
21 receives no timely response from the applicant, the department shall proceed
22 with the application.

23 “(6) Within seven days after proceeding with the application under sub-
24 section (5) of this section, the department shall give public notice of the
25 application in the weekly notice published by the department. The notice
26 shall include a request for comments on the application and information
27 pertaining to how an interested person may obtain future notices about the
28 application and a copy of the proposed final order.

29 “(7) Within 30 days after the public notice under subsection (6) of this
30 section, any person interested in the application shall submit written com-

1 ments to the department. Any person who asks to receive a copy of the
2 department's proposed final order shall submit to the department the fee re-
3 quired under ORS 536.050 (1).

4 **“SECTION 4.** ORS 537.150, as amended by section 13, chapter 819, Oregon
5 Laws 2009, and by section 3 of this 2013 Act, is amended to read:

6 “537.150. (1) Within 15 days after receiving an application, the Water
7 Resources Department shall determine whether the application contains the
8 information listed under ORS 537.140 (1) and is complete and not defective,
9 including the payment of all fees required under ORS 537.140 (5). If the de-
10 partment determines that the application is incomplete or defective or that
11 not all fees have been paid, the department shall return the fees paid and the
12 application.

13 “(2) Upon determining that an application contains the information listed
14 under ORS 537.140 (1) and is complete and not defective, the department shall
15 indorse on the application the date upon which the application was received
16 at the department, which shall be the priority date for any water right issued
17 in response to the application. All applications that comply with the pro-
18 visions of law shall be recorded in a suitable book kept for that purpose.

19 “(3) If an application is complete and not defective, the department shall
20 determine whether the proposed use is prohibited by ORS chapter 538. If the
21 proposed use is prohibited by ORS chapter 538, the department shall reject
22 the application and return all fees to the applicant with an explanation of
23 the statutory prohibition.

24 “(4) If the proposed use is not prohibited by ORS chapter 538, the de-
25 partment shall undertake an initial review of the application and make a
26 preliminary determination of:

27 “(a) Whether the proposed use is restricted or limited by statute or rule;

28 “(b) The extent to which water is available from the proposed source
29 during the times and in the amounts requested; and

30 “(c) Any other issue the department identifies as a result of the initial

1 review that may preclude approval of or restrict the proposed use.

2 “(5) Upon completion of the initial review and no later than 30 days after
3 determining an application to be complete and not defective as described in
4 subsection (1) of this section, the department shall notify the applicant of its
5 preliminary determinations and allow the applicant 14 days from the date
6 of mailing within which to notify the department to stop processing the ap-
7 plication or to proceed with the application. If the applicant notifies the
8 department to stop processing the application, the department shall return
9 the application and all fees paid in excess of [~~\$225~~] **\$200**. If the department
10 receives no timely response from the applicant, the department shall proceed
11 with the application.

12 “(6) Within seven days after proceeding with the application under sub-
13 section (5) of this section, the department shall give public notice of the
14 application in the weekly notice published by the department. The notice
15 shall include a request for comments on the application and information
16 pertaining to how an interested person may obtain future notices about the
17 application and a copy of the proposed final order.

18 “(7) Within 30 days after the public notice under subsection (6) of this
19 section, any person interested in the application shall submit written com-
20 ments to the department. Any person who asks to receive a copy of the
21 department’s proposed final order shall submit to the department the fee re-
22 quired under ORS 536.050 (1).

23 **“SECTION 5.** ORS 537.153, as amended by section 14, chapter 819, Oregon
24 Laws 2009, is amended to read:

25 “537.153. (1) Within 60 days after the Water Resources Department pro-
26 ceeds with the application under ORS 537.150 (5), the department shall com-
27 plete application review and issue a proposed final order approving or
28 denying the application or approving the application with modifications or
29 conditions. The department may request the applicant to provide additional
30 information needed to complete the review. If the department requests addi-

1 tional information, the request shall be specific and shall be sent to the ap-
2 plicant by registered mail. The department shall specify a date by which the
3 information must be returned, which shall be not less than 10 days after the
4 department mails the request to the applicant. If the department does not
5 receive the information or a request for a time extension under ORS 537.175
6 by the date specified in the request, the department may reject the applica-
7 tion and may refund fees in accordance with ORS 536.050 [(3)(a)] **(4)(a)**. The
8 time period specified by the department in a request for additional informa-
9 tion shall allow the department to comply with the 60-day time limit estab-
10 lished by this subsection.

11 “(2) In reviewing the application under subsection (1) of this section, the
12 department shall presume that a proposed use will not impair or be detri-
13 mental to the public interest if the proposed use is allowed in the applicable
14 basin program established pursuant to ORS 536.300 and 536.340 or given a
15 preference under ORS 536.310 (12), if water is available, if the proposed use
16 will not injure other water rights and if the proposed use complies with rules
17 of the Water Resources Commission. This shall be a rebuttable presumption
18 and may be overcome by a preponderance of evidence that either:

19 “(a) One or more of the criteria for establishing the presumption are not
20 satisfied; or

21 “(b) The proposed use will impair or be detrimental to the public interest
22 as demonstrated in comments, in a protest under subsection (6) of this sec-
23 tion or in a finding of the department that shows:

24 “(A) The specific public interest under ORS 537.170 (8) that would be im-
25 paired or detrimentally affected; and

26 “(B) Specifically how the identified public interest would be impaired or
27 detrimentally affected.

28 “(3) The proposed final order shall cite findings of fact and conclusions
29 of law and shall include but need not be limited to:

30 “(a) Confirmation or modification of the preliminary determinations made

1 in the initial review;

2 “(b) A brief statement that explains the criteria considered relevant to the
3 decision, including the applicable basin program and the compatibility of the
4 proposed use with applicable land use plans;

5 “(c) An assessment of water availability and the amount of water neces-
6 sary for the proposed use;

7 “(d) An assessment of whether the proposed use would result in injury to
8 existing water rights;

9 “(e) An assessment of whether the proposed use would impair or be det-
10 rimental to the public interest as provided in ORS 537.170;

11 “(f) A draft permit, including any proposed conditions, or a recommen-
12 dation to deny the application;

13 “(g) Whether the rebuttable presumption that the proposed use will not
14 impair or be detrimental to the public interest has been established; and

15 “(h) The date by which protests to the proposed final order must be re-
16 ceived by the department.

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

22 “(5) Any person who supports a proposed final order may request standing
23 for purposes of participating in any contested case proceeding on the pro-
24 posed final order or for judicial review of a final order. A request for
25 standing shall be in writing and shall be accompanied by the fee established
26 under ORS 536.050 (1)(n).

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

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

30 “(b) A description of the protestant’s interest in the proposed final order

1 and, if the protestant claims to represent the public interest, a precise
2 statement of the public interest represented;

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

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

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

8 “(f) [*For persons other than the applicant,*] The protest fee required under
9 ORS 536.050.

10 “(7) Requests for standing and protests on the proposed final order shall
11 be submitted within 45 days after publication of the notice of the proposed
12 final order in the weekly notice published by the department. Any person
13 who asks to receive a copy of the department’s final order shall submit to
14 the department the fee required under ORS 536.050 (1)(p), unless the person
15 has previously requested copies and paid the required fee under ORS 537.150
16 (7), the person is a protestant and has paid the fee required under ORS
17 536.050 (1)(j) or the person has standing and has paid the fee under ORS
18 536.050 (1)(n).

19 “(8) Within 60 days after the close of the period for receiving protests, the
20 Water Resources Director shall:

21 “(a) Issue a final order as provided under ORS 537.170 (6); or

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

24 “(A) Upon review of the issues, the director finds that there are signif-
25 icant disputes related to the proposed use of water; or

26 “(B) Within 30 days after the close of the period for submitting protests,
27 the applicant requests a contested case hearing.

28 “**SECTION 6.** ORS 537.610, as amended by section 15, chapter 819, Oregon
29 Laws 2009, is amended to read:

30 “537.610. (1) The Water Resources Commission shall accept all registra-

1 tion statements referred to in ORS 537.605 completed and returned to the
2 commission in proper form, endorse on the registration statement the date
3 of the return and record each statement. Upon recording the statement, the
4 commission shall issue to the registrant a certificate as evidence that the
5 registration is completed.

6 “(2) The issuance of the certificate of registration serves as prima facie
7 evidence that the registrant is entitled to a right to appropriate ground wa-
8 ter and apply it to beneficial use to the extent and in the manner disclosed
9 in the recorded registration statement and in the certificate of registration.

10 “(3) A certificate of registration issued under this section may not be
11 construed as a final determination of any matter stated in the certificate of
12 registration. The right of the registrant to appropriate ground water under
13 a certificate of registration is subject to determination under ORS 537.670
14 to 537.695, and is not final or conclusive until so determined and a ground
15 water right certificate issued. A right to appropriate ground water under a
16 certificate of registration has a tentative priority from the date when the
17 construction of the well was begun.

18 “(4) The commission shall adopt by rule the process and standards by
19 which the commission will recognize changes in the place of use, type of use
20 or point of appropriation for claims to appropriate ground water registered
21 under this section. The commission shall adopt fees not to exceed [\$500]
22 **\$1,250** for actions taken to modify a certificate of registration.

23 **“SECTION 7.** ORS 537.610, as amended by section 15, chapter 819, Oregon
24 Laws 2009, and by section 6 of this 2013 Act, is amended to read:

25 “537.610. (1) The Water Resources Commission shall accept all registra-
26 tion statements referred to in ORS 537.605 completed and returned to the
27 commission in proper form, endorse on the registration statement the date
28 of the return and record each statement. Upon recording the statement, the
29 commission shall issue to the registrant a certificate as evidence that the
30 registration is completed.

1 “(2) The issuance of the certificate of registration serves as prima facie
2 evidence that the registrant is entitled to a right to appropriate ground wa-
3 ter and apply it to beneficial use to the extent and in the manner disclosed
4 in the recorded registration statement and in the certificate of registration.

5 “(3) A certificate of registration issued under this section may not be
6 construed as a final determination of any matter stated in the certificate of
7 registration. The right of the registrant to appropriate ground water under
8 a certificate of registration is subject to determination under ORS 537.670
9 to 537.695, and is not final or conclusive until so determined and a ground
10 water right certificate issued. A right to appropriate ground water under a
11 certificate of registration has a tentative priority from the date when the
12 construction of the well was begun.

13 “(4) The commission shall adopt by rule the process and standards by
14 which the commission will recognize changes in the place of use, type of use
15 or point of appropriation for claims to appropriate ground water registered
16 under this section. The commission shall adopt fees not to exceed [~~\$1,250~~]
17 **\$1,125** for actions taken to modify a certificate of registration.

18 **“SECTION 8.** ORS 537.620, as amended by section 16, chapter 819, Oregon
19 Laws 2009, is amended to read:

20 “537.620. (1) The Water Resources Department shall accept all applica-
21 tions for permits submitted under ORS 537.615 in proper form.

22 “(2) Within 15 days after receiving the application, the department shall
23 determine whether the application contains the information listed under ORS
24 537.615 (2) and is complete and not defective, including the payment of all
25 fees required under ORS 537.615 (5). If the department determines that the
26 application is incomplete or defective or that not all fees have been paid, the
27 department shall return the fees paid and the application to the applicant
28 to remedy the defect. If an application is complete and not defective, the
29 department shall indorse on the application the date upon which the appli-
30 cation was received at the department, which shall be the priority date for

1 any water right issued in response to the application.

2 “(3) Upon determining that an application is complete and not defective,
3 the department shall determine whether the proposed use is prohibited by
4 statute. If the proposed use is prohibited by statute, the department shall
5 reject the application and return all fees to the applicant with an explana-
6 tion of the statutory prohibition.

7 “(4) If the proposed use is not prohibited by statute, the department shall
8 undertake an initial review of the application and make a preliminary de-
9 termination of:

10 “(a) Whether the proposed use is restricted or limited by statute or rule
11 or because the proposed use is located within a designated critical ground
12 water area;

13 “(b) The extent to which water is available from the proposed source
14 during the times and in the amounts requested; and

15 “(c) Any other issue the department identifies as a result of the initial
16 review that may preclude approval of or restrict the proposed use.

17 “(5) Upon completion of the initial review and no later than 30 days after
18 determining an application to be complete and not defective as described in
19 subsection (2) of this section, the department shall notify the applicant of its
20 preliminary determinations and allow the applicant 14 days from the date
21 of mailing within which to notify the department to stop processing the ap-
22 plication or to proceed with the application. If the applicant notifies the
23 department to stop processing the application, the department shall return
24 the application and all fees paid in excess of [~~\$150~~] **\$225**. If the department
25 receives no timely response from the applicant, the department shall proceed
26 with the application.

27 “(6) Within seven days after proceeding with the application under sub-
28 section (5) of this section, the department shall give public notice of the
29 application in the weekly notice published by the department. The notice
30 shall include a request for comments on the application and information

1 pertaining to how an interested person may obtain future notices about the
2 application and a copy of the proposed final order.

3 “(7) Within 30 days after the public notice under subsection (6) of this
4 section, any person interested in the application shall submit written com-
5 ments to the department. Any person who asks to receive a copy of the
6 department’s proposed final order shall submit to the department the fee re-
7 quired under ORS 536.050 (1)(p).

8 **“SECTION 9.** ORS 537.620, as amended by section 16, chapter 819, Oregon
9 Laws 2009, and by section 8 of this 2013 Act, is amended to read:

10 “537.620. (1) The Water Resources Department shall accept all applica-
11 tions for permits submitted under ORS 537.615 in proper form.

12 “(2) Within 15 days after receiving the application, the department shall
13 determine whether the application contains the information listed under ORS
14 537.615 (2) and is complete and not defective, including the payment of all
15 fees required under ORS 537.615 (5). If the department determines that the
16 application is incomplete or defective or that not all fees have been paid, the
17 department shall return the fees paid and the application to the applicant
18 to remedy the defect. If an application is complete and not defective, the
19 department shall indorse on the application the date upon which the appli-
20 cation was received at the department, which shall be the priority date for
21 any water right issued in response to the application.

22 “(3) Upon determining that an application is complete and not defective,
23 the department shall determine whether the proposed use is prohibited by
24 statute. If the proposed use is prohibited by statute, the department shall
25 reject the application and return all fees to the applicant with an explana-
26 tion of the statutory prohibition.

27 “(4) If the proposed use is not prohibited by statute, the department shall
28 undertake an initial review of the application and make a preliminary de-
29 termination of:

30 “(a) Whether the proposed use is restricted or limited by statute or rule

1 or because the proposed use is located within a designated critical ground
2 water area;

3 “(b) The extent to which water is available from the proposed source
4 during the times and in the amounts requested; and

5 “(c) Any other issue the department identifies as a result of the initial
6 review that may preclude approval of or restrict the proposed use.

7 “(5) Upon completion of the initial review and no later than 30 days after
8 determining an application to be complete and not defective as described in
9 subsection (2) of this section, the department shall notify the applicant of its
10 preliminary determinations and allow the applicant 14 days from the date
11 of mailing within which to notify the department to stop processing the ap-
12 plication or to proceed with the application. If the applicant notifies the
13 department to stop processing the application, the department shall return
14 the application and all fees paid in excess of [~~\$225~~] **\$200**. If the department
15 receives no timely response from the applicant, the department shall proceed
16 with the application.

17 “(6) Within seven days after proceeding with the application under sub-
18 section (5) of this section, the department shall give public notice of the
19 application in the weekly notice published by the department. The notice
20 shall include a request for comments on the application and information
21 pertaining to how an interested person may obtain future notices about the
22 application and a copy of the proposed final order.

23 “(7) Within 30 days after the public notice under subsection (6) of this
24 section, any person interested in the application shall submit written com-
25 ments to the department. Any person who asks to receive a copy of the
26 department’s proposed final order shall submit to the department the fee re-
27 quired under ORS 536.050 (1)(p).

28 **“SECTION 10.** ORS 537.621, as amended by section 17, chapter 819,
29 Oregon Laws 2009, is amended to read:

30 “537.621. (1) Within 60 days after the Water Resources Department pro-

1 ceeds with the application under ORS 537.620 (5), the department shall com-
2 plete application review and issue a proposed final order approving or
3 denying the application or approving the application with modifications or
4 conditions. The department may request the applicant to provide additional
5 information needed to complete the review. If the department requests addi-
6 tional information, the request shall be specific and shall be sent to the ap-
7 plicant by registered mail. The department shall specify a date by which the
8 information must be returned, which shall be not less than 10 days after the
9 department mails the request to the applicant. If the department does not
10 receive the information or a request for a time extension under ORS 537.627
11 by the date specified in the request, the department may reject the applica-
12 tion and may refund fees in accordance with ORS 536.050 [(3)(a)] **(4)(a)**. The
13 time period specified by the department in a request for additional informa-
14 tion shall allow the department to comply with the 60-day time limit estab-
15 lished by this subsection.

16 “(2) In reviewing the application under subsection (1) of this section, the
17 department shall determine whether the proposed use will ensure the pres-
18 ervation of the public welfare, safety and health as described in ORS 537.525.
19 The department shall presume that a proposed use will ensure the preserva-
20 tion of the public welfare, safety and health if the proposed use is allowed
21 in the applicable basin program established pursuant to ORS 536.300 and
22 536.340 or given a preference under ORS 536.310 (12), if water is available,
23 if the proposed use will not injure other water rights and if the proposed use
24 complies with rules of the Water Resources Commission. This shall be a
25 rebuttable presumption and may be overcome by a preponderance of evidence
26 that either:

27 “(a) One or more of the criteria for establishing the presumption are not
28 satisfied; or

29 “(b) The proposed use would not ensure the preservation of the public
30 welfare, safety and health as demonstrated in comments, in a protest under

1 subsection (7) of this section or in a finding of the department that shows:

2 “(A) The specific aspect of the public welfare, safety and health under
3 ORS 537.525 that would be impaired or detrimentally affected; and

4 “(B) Specifically how the identified aspect of the public welfare, safety
5 and health under ORS 537.525 would be impaired or be adversely affected.

6 “(3) The proposed final order shall cite findings of fact and conclusions
7 of law and shall include but need not be limited to:

8 “(a) Confirmation or modification of the preliminary determinations made
9 in the initial review;

10 “(b) A brief statement that explains the criteria considered relevant to the
11 decision, including the applicable basin program and the compatibility of the
12 proposed use with applicable land use plans;

13 “(c) An assessment of water availability and the amount of water neces-
14 sary for the proposed use;

15 “(d) An assessment of whether the proposed use would result in injury to
16 existing water rights;

17 “(e) An assessment of whether the proposed use would ensure the preser-
18 vation of the public welfare, safety and health as described in ORS 537.525;

19 “(f) A draft permit, including any proposed conditions, or a recommen-
20 dation to deny the application;

21 “(g) Whether the rebuttable presumption under subsection (2) of this sec-
22 tion has been established;

23 “(h) The date by which protests to the proposed final order must be re-
24 ceived by the department; and

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

26 “(4) In establishing the flow rate and duty of water allowed, the depart-
27 ment may consider a general basin-wide standard, but first shall evaluate
28 information submitted by the applicant to demonstrate the need for a flow
29 rate and duty higher than the general standard. If the applicant provides
30 such information, the department shall authorize the requested rate and duty

1 except upon specific findings related to the application to support a deter-
2 mination that a lesser amount is needed. If the applicant does not provide
3 information to demonstrate the need for a flow rate and duty higher than the
4 general basin-wide standard, the department may apply the general standards
5 without specific findings related to the application.

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

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

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

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

19 “(b) A description of the protestant’s interest in the proposed final order,
20 and if the protestant claims to represent the public interest, a precise state-
21 ment of the public interest represented;

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

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

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

27 “(f) [*For persons other than the applicant,*] The protest fee required under
28 ORS 536.050.

29 “(8) Requests for standing and protests on the proposed final order shall
30 be submitted within 45 days after publication of the notice of the proposed

1 final order in the weekly notice published by the department. Any person
2 who asks to receive a copy of the department's final order shall submit to
3 the department the fee required under ORS 536.050 (1)(p), unless the person
4 has previously requested copies and paid the required fee under ORS 537.620
5 (7), the person is a protestant and has paid the fee required under ORS
6 536.050 (1)(j) or the person has standing and has paid the fee under ORS
7 536.050 (1)(n).

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

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

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

13 “(A) Upon review of the issues, the director finds that there are signif-
14 icant disputes related to the proposed use of water; or

15 “(B) Within 30 days after the close of the period for submitting protests,
16 the applicant requests a contested case hearing.

17 **“SECTION 11.** ORS 539.081 is amended to read:

18 “539.081. (1) At the time the owner or registrant submits a registration
19 statement under ORS 539.240 or, if a registration statement is not filed, when
20 a statement and proof of claim is filed pursuant to notice by the Water Re-
21 sources Director under ORS 539.030, the owner or registrant shall pay a fee
22 as follows:

23 “(a) If for irrigation use, \$2 for each acre of irrigated lands up to 100
24 acres and \$1 for each acre in excess of 100 acres. The minimum fee for any
25 owner or registrant for irrigation use shall be [~~\$30~~] **\$100**.

26 “(b) If for power use, \$2 for each theoretical horsepower up to 100 horse-
27 power, [~~50~~] **75** cents for each horsepower in excess of 100 up to 500 horse-
28 power, [~~35~~] **50** cents for each horsepower in excess of 500 horsepower up to
29 1,000 horsepower and [~~25~~] **35** cents for each horsepower in excess of 1,000
30 horsepower, as set forth in the proof. The minimum fee for any owner or

1 registrant for power use shall be [~~\$200~~] **\$300**.

2 “(c) If for mining or any other use, [~~\$200~~] **\$500** for the first second-foot
3 or fraction of the first second-foot and [~~\$50~~] **\$100** for each additional
4 second-foot.

5 “(2) The fees under subsection (1) of this section shall not apply to any
6 federally recognized Indian tribe, or to the United States acting as trustee
7 for such a tribe, claiming, under ORS 539.010, an undetermined vested right
8 to the use of surface water for any nonconsumptive and nondiverted in-
9 stream use to satisfy tribal hunting, fishing or gathering rights.

10 “(3) If the registration statement shows that the water right was initiated
11 by making application for a permit under the provisions of ORS chapter 537,
12 the owner or registrant shall be given credit for the money paid as exam-
13 ination and recording fees. A credit under this subsection shall be allowed
14 only if the application under ORS chapter 537 was for a permit to appropri-
15 ate water to be applied to the same parcel of land or for the same use as set
16 forth in the registration statement.

17 “(4) All fees paid under this section shall be deposited into the General
18 Fund of the State Treasury and credited to an account of the Water Re-
19 sources Department. The fees shall be used to pay for the expenses of the
20 department to:

21 “(a) Register claims to undetermined vested rights or federal reserved
22 rights under ORS 539.230 and 539.240; and

23 “(b) Determine claims filed or registered under ORS 539.230 and 539.240.

24 “(5) No registration statement or statement and proof of claim shall be
25 accepted for filing unless the registration statement or claim is accompanied
26 by the fee in the amount set forth in this section. If the federal government
27 is determined to be immune from the payment of such fees, the director may
28 elect to accept a federal claim for filing without the accompanying fees.

29 **“SECTION 12.** ORS 539.081, as amended by section 11 of this 2013 Act,
30 is amended to read:

1 “539.081. (1) At the time the owner or registrant submits a registration
2 statement under ORS 539.240 or, if a registration statement is not filed, when
3 a statement and proof of claim is filed pursuant to notice by the Water Re-
4 sources Director under ORS 539.030, the owner or registrant shall pay a fee
5 as follows:

6 “(a) If for irrigation use, \$2 for each acre of irrigated lands up to 100
7 acres and \$1 for each acre in excess of 100 acres. The minimum fee for any
8 owner or registrant for irrigation use shall be [~~\$100~~] **\$30**.

9 “(b) If for power use, \$2 for each theoretical horsepower up to 100 horse-
10 power, [~~75~~] **50** cents for each horsepower in excess of 100 up to 500 horse-
11 power, [~~50~~] **35** cents for each horsepower in excess of 500 horsepower up to
12 1,000 horsepower and [~~35~~] **25** cents for each horsepower in excess of 1,000
13 horsepower, as set forth in the proof. The minimum fee for any owner or
14 registrant for power use shall be [~~\$300~~] **\$200**.

15 “(c) If for mining or any other use, [~~\$500~~] **\$200** for the first second-foot
16 or fraction of the first second-foot and [~~\$100~~] **\$50** for each additional
17 second-foot.

18 “(2) The fees under subsection (1) of this section shall not apply to any
19 federally recognized Indian tribe, or to the United States acting as trustee
20 for such a tribe, claiming, under ORS 539.010, an undetermined vested right
21 to the use of surface water for any nonconsumptive and nondiverted in-
22 stream use to satisfy tribal hunting, fishing or gathering rights.

23 “(3) If the registration statement shows that the water right was initiated
24 by making application for a permit under the provisions of ORS chapter 537,
25 the owner or registrant shall be given credit for the money paid as exam-
26 ination and recording fees. A credit under this subsection shall be allowed
27 only if the application under ORS chapter 537 was for a permit to appropri-
28 ate water to be applied to the same parcel of land or for the same use as set
29 forth in the registration statement.

30 “(4) All fees paid under this section shall be deposited into the General

1 Fund of the State Treasury and credited to an account of the Water Re-
2 sources Department. The fees shall be used to pay for the expenses of the
3 department to:

4 “(a) Register claims to undetermined vested rights or federal reserved
5 rights under ORS 539.230 and 539.240; and

6 “(b) Determine claims filed or registered under ORS 539.230 and 539.240.

7 “(5) No registration statement or statement and proof of claim shall be
8 accepted for filing unless the registration statement or claim is accompanied
9 by the fee in the amount set forth in this section. If the federal government
10 is determined to be immune from the payment of such fees, the director may
11 elect to accept a federal claim for filing without the accompanying fees.

12 **“SECTION 13.** ORS 543A.120 is amended to read:

13 “543A.120. (1) A proposed final order prepared by a Hydroelectric Appli-
14 cation Review Team and submitted to the Water Resources Department un-
15 der ORS 543A.040, 543A.055 or 543A.105 shall be based on the application of
16 the standards set forth in ORS 543A.025 and shall reflect the complete review
17 of the water right application for compliance with applicable statutes and
18 rules.

19 “(2) The proposed final order shall cite findings of fact and conclusions
20 of law and shall include but need not be limited to:

21 “(a) Confirmation or modification of the preliminary determinations made
22 in the initial review;

23 “(b) A brief statement that explains the criteria considered relevant to the
24 decision, including the applicable basin program, the compatibility of the
25 proposed use with applicable land use plans and information set forth in the
26 application report or final report on studies;

27 “(c) An assessment of water availability and the amount of water neces-
28 sary for the proposed use;

29 “(d) An assessment of whether the proposed use would result in injury to
30 existing water rights;

1 “(e) An assessment of whether the proposed use would impair or be det-
2 rimental to the public interest as provided in ORS 543A.025;

3 “(f) A draft certificate, including any proposed conditions, or a recom-
4 mendation to deny the application; and

5 “(g) The date by which protests to the proposed final order must be re-
6 ceived by the department.

7 “(3) The department shall mail copies of the proposed final order, as
8 submitted by the team, to the applicant and to persons who have requested
9 copies and paid the fee required under ORS 536.050 (1)(p). The department
10 also shall give public notice of the proposed final order in the weekly notice
11 published by the department.

12 “(4) Any person may request standing for purposes of participating in any
13 contested case proceeding on the proposed final order or for judicial review
14 of a final order. A request for standing shall be in writing and shall be ac-
15 companied by the fee established under ORS 536.050 (1)(n).

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

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

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

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

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

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

27 “(f) [*For persons other than the applicant,*] The protest fee required under
28 ORS 536.050 (1)(j).

29 “(6) Requests for standing and protests on the proposed final order shall
30 be submitted within 45 days after publication of the notice of the proposed

1 final order in the weekly notice published by the department. Any person
2 who asks to receive a copy of the department's final order shall submit to
3 the department the fee required under ORS 536.050 (1)(p), unless the person
4 has previously requested copies and paid the required fee.

5 “(7) The Hydroelectric Application Review Team shall review any protest
6 received and provide to the Water Resources Director a recommended re-
7 sponse to any protest received.

8 “(8) Within 120 days after the close of the period for receiving protests
9 and after consultation with the Hydroelectric Application Review Team, the
10 director shall:

11 “(a) Issue a final order as provided under ORS 543A.130; or

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

14 “(A) Upon review of the issues, the director finds that there are signif-
15 icant disputes related to the proposed reauthorization of the project; or

16 “(B) Within 30 days after the close of the period for submitting protests,
17 the applicant requests a contested case hearing.

18 “(9) At the request of the applicant, the department may extend the time
19 periods set forth in subsection (8) of this section for a reasonable period of
20 time.

21 “(10) If the application is for reauthorization of a water right for a
22 federally licensed project, the department may postpone the issuance of the
23 final order until the Federal Energy Regulatory Commission license is is-
24 sued.

25 **“SECTION 14. Section 18, chapter 819, Oregon Laws 2009, is re-**
26 **pealed.**

27 **“SECTION 15. The Legislative Assembly intends that the amend-**
28 **ments to ORS 536.050, 537.150, 537.153, 537.610, 537.620, 537.621, 539.081**
29 **and 543A.120 by sections 1, 3, 5, 6, 8, 10, 11 and 13 of this 2013 Act and**
30 **any fee amounts established under those amendments apply**

1 retroactively to July 1, 2013.

2 **“SECTION 16.** The amendments to ORS 536.050, 537.150, 537.610,
3 537.620 and 539.081 by sections 2, 4, 7, 9 and 12 of this 2013 Act become
4 operative July 1, 2017.

5 **“SECTION 17.** This 2013 Act being necessary for the immediate
6 preservation of the public peace, health and safety, an emergency is
7 declared to exist, and this 2013 Act takes effect on its passage.”.

8
