

Criteria for Evaluating Applications to Construct a Reservoir

A permit to construct a reservoir allows construction of the reservoir and storage of streamflow that is surplus to the needs of existing rights. Generally, a “secondary” application to appropriate surface water will be required to use the stored water. The standards and procedures used by the Water Resources Department in evaluating applications to construct a reservoir are described in Oregon Revised Statute (ORS) Chapter 537 (<http://landru.leg.state.or.us/ors/>) and in Oregon Administrative Rules (OAR) Chapter 690, Divisions 5, 20, and 310 (<http://www.wrd.state.or.us/law/oar1999.shtml>).

This is a summary, prepared by the Water Resources Department, of criteria and procedures that are generally applicable to applications to construct a reservoir with a dam more than 10 feet high and storing more than 9.2 acre-feet and for a reservoir filled with ground water. The summary is necessarily general, and may not specifically address every applicant’s fact situation. The summary is intended as general guidance for applicants, and not as a substitute for reference to applicable statutes and rules.

In reviewing an application to construct a reservoir under ORS 537.130 to 537.248, ORS 537.615 to 537.635, ORS 537.330 to 537.400 and ORS 540.400 to 540.409, the Department will consider the following criteria:

- Compliance with applicable basin program or provisions [OAR 690-500 to 690-520], any applicable interstate compacts [ORS Chapter 542], and statewide administrative rules [ORS 536.300 & OAR 690-410]
- Compliance with statewide planning goals [OAR 690-005-0030]
- Compliance with acknowledged land use comprehensive plans [OAR 690-005-0035]
- Water availability [OAR 690-310-080 & OAR 690-310-150]
- Completeness of application [OAR 690-310-070]
- Public interest standards [ORS 537.153]
- Impairment or detriment to the public interest with regard to sensitive, threatened, or endangered fish species [OAR 690-033]
- Injury to existing water rights of record [OAR-690-310-150]
- Compliance with Scenic Waterway requirements [ORS 390.835]

Reservoir Application Procedures and Review

The Water Resources Department processes an application to construct a reservoir using the following procedure:

1. **Completeness Determination**

The Department evaluates if the application contains all required information including a map prepared by a certified water right examiner, land-use form and fees. The Department also determines whether the proposed use is prohibited by statute. If the Department determines that the application is incomplete, all fees have not been paid, or the use is prohibited by statute, the application and all fees submitted are returned to the applicant.

2. **Initial Review**

The Department reviews the application to determine whether water is available during the time requested, whether the proposed use is restricted or limited by rule and statute, and whether other issues may preclude approval or restrict the proposed use. An initial review report containing preliminary determinations is mailed to the applicant.

3. **Public Notice**

If the permit application is not withdrawn by the applicant within 14 days of the mailing of the initial review, the Department gives public notice of the application in the weekly notice published by the Department. The public comment period is 30 days from publication in the weekly notice.

4. **Proposed Final Order Issued**

The Department reviews any comments received. Within 60 days of completion of the initial review report, the Department issues a proposed final order explaining the findings of the initial review and describing the proposed decision to deny or approve the application. Proposed approval of an application will include a draft permit.

5. **Public Notice**

Within 7 days of issuing the proposed final order, the Department gives public notice in the weekly notice. Notice includes information about the application and the proposed final order. Protest requests must be received by the Department within 45 days after publication of the proposed final order in the weekly notice.

6. **Final Order Issued**

Within 60 days of the close of the period for receiving protests, the Director of the Water Resources Department determines whether to issue a final order or to schedule a contested case hearing. After a contested case hearing or if there is no contested case hearing, a final order is issued approving or rejecting the application or modifying the proposed final order. The permit specifies the details of the authorized use and may include any terms, limitations, or conditions that the Department considers appropriate. A reservoir permit issued for a new storage project will include a date to complete construction of diversion or storage works and to perfect the water right.

7. Approval of Engineering Plans

Maps, plans, and specifications for the construction, enlargement, repair, or alteration of all dams must be prepared by an engineer licensed in Oregon or a qualified representative of the federal government. Engineering plans and specifications for the reservoir do not have to be submitted before the permit is issued. However, the applicant may not begin construction of the reservoir until the Department approves the engineering plans and specifications.

8. Dam Safety Review

A newly constructed dam is not allowed to store water until written approval is received from the Department. Approval is given after construction is completed and is certified by the supervising engineer to have been constructed in accordance with the approved plans and specifications. The Water Resources Commission may inspect the site, plans, specifications, and other features involved in the maintenance and operation of the works. As a result of the inspection, the Commission may consider modifications necessary to ensure the safety of the works with reference to possible damage to life or property. If modifications are deemed necessary, the Commission notifies the legal owners by registered mail or by certified mail, stating why the works are unsafe. The notice sets forth any modifications necessary and sets a hearing time and place. After the hearing, the Commission issues a written order to the owners specifying any modifications necessary to insure the safety of the works, the time limit for construction to begin, and the time for construction completion. The owners, upon receipt of the order, make the modifications ordered within the time limit prescribed or initiate an appeal.

Standard Application Completeness Checklist

Minimum Requirements (OAR 690-310-0040)(ORS 537.400)

This is the checklist used by WRD staff

Application _____ Township _____

Priority Date _____ Range _____

Use(s) _____ Section _____

Rate _____ POD Loc _____

County _____ POU Loc _____

W.M. _____ Caseworker _____

Applicant/Organization Name, Mailing Address and Telephone Number.

Source of water. If stored water, is the stored water component filed out, including a non-expired agreement for stored water must be included. (ORS 537.400) **NOTE:** *A surface water application cannot be filled at the same time as a Reservoir or Alt Reservoir if it will be for the use of the stored water under the PROPOSED Reservoir application (E2).*

The proposed source **is** or **is not** (circle one) withdrawn from further appropriation, or Division 538. If it is, return application and fees.

Property ownership indicated.

If applicant does not own all the land, the affected landowner's name and mailing address must be listed.

If applicant does not own all the land, a statement declaring the existence of either written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work must be submitted.

Groundwater development section (Page 3 and 4, Section B) or a well log report.

Proposed use of water. If supplemental, list primary water right acreage if applicable.

Enclosed Supplemental Form for each proposed use.

Form I (Irrigation)

Form M (Municipal or Quasi-Municipal)

Form R (Mining)

Form Q (Commercial or Industrial)

Spring Description Sheet

Amount of water from *each* source in gallons per minute (GPM), cubic feet per second (CFS), or acre feet (AF)

Period of use

Water management section (Please estimate if the water system has not been designed).

- Resource Protection Section (Page 6, Section 5).
 - Project schedule (If system is already completed, indicate "existing").
 - For reservoir applications storing more than 9.2 acre feet, and a dam height of more than 10 feet, preliminary plans and specifications for dam and impoundment are required.
 - If the above is statement is checked, the map must be prepared by a CWRE.
 - **All** applicants (or the authorized agent with title or authority if for an organization or corporation), must sign the application in ink. *Signature must be an original "wet" signature.*
 - You must include a Legal description of the property involved that includes a metes and bounds, or other government survey description. A copy of the deed, land sales contract or title insurance policy can provide this information, or you may submit a lot book report prepared by a title company. The Department will not accept a copy of the tax bill.
 - A completed Land-Use Form or receipt signed and dated by the appropriate planning department officials. *Date of signature must be within the past 12 months. Signature must be an original "wet" signature.*
 - The map must meet all the minimum requirements of OAR 690-310-0050.
 - Township, Range, Section
 - Place of use, 1/4, 1/4's and tax lot clearly identified
 - Location of each diversion point well or dam by reference to a recognized public land survey corner
 - Number of acres per 1/4, 1/4, if irrigation, nursery, or agriculture
 - Reference corner on map
 - Each point of diversion coordinate
 - Location of main canals, ditches, pipelines or flumes (if POA/POD is outside of POU)
 - Even map scale not less than 4" = 1 mile (example: 1" = 100 ft, 1" = 200 ft, etc.)
 - North Directional Symbol
 - Other _____
 - Fees: Amount of water requested _____

Base Fee \$ _____	Additional Use @ _____ = _____
1st CFS/AF _____	Total Exam Fees \$ _____
___ Addtn'l CFS/ AF @ _____ = _____	Total Paid \$ _____
___ Addtn' POD @ _____ = _____	Amount Due \$ _____
- Reviewed by: _____ Date : _____