

ANNOTATIONS

*Rule of Water Resources Commission that allows phased reduction of water pumpage to levels of sustainable average yields is consistent with statutory policy. *Waterwatch of Oregon v. Water Resources Dept.*, 120 Or App 366, 852 P2d 902 (1993), Sup Ct **review denied**.

CASE CITATIONS: *Phillips v. Gardner*, (1970) 2 Or App 423, 469 P2d 42.

537.545

*LAW REVIEW CITATIONS: 40 EL 141 (2010); 47 WLR 405 (2011).

537.575

ATTY. GEN. OPINIONS: Approval of applications under former law, 1954-56, p 117.

537.585

ATTY. GEN. OPINIONS: Issuance of certificate if use violated statutes, 1958-60, p 25.

537.595

ATTY. GEN. OPINIONS: Issuance of certificate if use violated statutes, 1958-60, p 25.

537.605

ATTY. GEN. OPINIONS: Persons entitled to certificates of registration, 1958-60, p 25.

537.615

NOTES OF DECISIONS

Applicant for water right is charged with the knowledge of the requirements imposed by the statutes in perfecting a water right. *Green v. Wheeler*, (1969) 254 Or 424, 458 P2d 938, cert. denied, 397 US 990.

537.620

ATTY. GEN. OPINIONS: Authority of State Engineer in the prevention of wastage, 1952-54, p 146.

537.621

NOTES OF DECISIONS

*Protest of final order must include timely submission of protest fee. *Dority v. Water Resources Dept.*, 149 Or App 124, 942 P2d 292 (1997).

*LAW REVIEW CITATIONS: 47 EL 519 (2017).

537.625

NOTES OF DECISIONS

If the requirements for perfection of an appropriation are not met, the State Engineer may cancel a permit in accordance with the procedure in ORS 537.260. *Green v. Wheeler*, (1969) 254 Or 424, 458 P2d 938, cert. denied, 397 US 990.

Water right certificate, not the permit, even when followed by a beneficial use, marks the point at which a water right becomes vested. *Id.*

*LAW REVIEW CITATIONS: 47 EL 519 (2017).

537.630

NOTES OF DECISIONS

Applicant for water right, not the State Engineer, has the duty to see that the requirements for perfecting a water right have been fulfilled. *Green v. Wheeler*, (1969) 254 Or 424, 458 P2d 938, cert. denied, 397 US 990.

Water right certificate, not the permit, even when followed by a beneficial use, marks the point at which a water right becomes vested. *Id.*

537.635

NOTES OF DECISIONS

Assignee who failed to file assignment with State Engineer could not complain of lack of notice regarding cancellation of permit. *Green v. Wheeler*, (1969) 254 Or 424, 458 P2d 938, cert. denied, 397 US 990.

537.665

ATTY. GEN. OPINIONS: Investigation of underground water supply, 1954-56, p 117.

537.730

NOTES OF DECISIONS

*The written notice of hearing required under this section must be sent by registered or certified mail. *Campbell Ranch, Inc. v. Water Resources Dept.*, 28 Or App 243, 558 P2d 1295 (1977).

*Notice of hearing, which did not refer explicitly to water supply in area being or about to be overdrawn, was adequate to advise petitioners of statutory provisions on which director would rely in making critical ground water area determination. *Doherty v. Oregon Water Resources Director*, 92 Or App 22, 758 P2d 865 (1988), **as modified by** 93 Or App 354, 762 P2d 330, **aff'd** 308 Or 543, 783 P2d 519 (1989).

*Where Water Resources Director finds that public welfare, health and safety require corrective controls and director made findings of fact that satisfied statutory standards which director properly interpreted and applied, director's findings and justification for order establishing Butter Creek Critical Ground Water Area were sufficient. *Doherty v. Oregon Water Resources Director*, 308 Or 543, 783 P2d 519 (1989).

ATTY. GEN. OPINIONS: Classifying ground water, 1960-62, p 426.

*LAW REVIEW CITATIONS: 21 EL 18 (1991); 40 EL 141 (2010); 47 WLR 405 (2011).

537.735

NOTES OF DECISIONS

*This section does not require that critical ground water area contain an entire ground water reservoir; it is sufficient that boundaries of area can be defined and that director indicates which reservoirs are contained within it. *Doherty v. Oregon Water Resources Director*, 92 Or App 22, 758 P2d 865 (1988), **as modified by** 93 Or App 354, 762 P2d 330, **aff'd** 308 Or 543, 783 P2d 519 (1989).

*Where Water Resources Director finds that public welfare, health and safety require corrective controls and director made findings of fact that satisfied statutory standards which director properly interpreted and applied, director's findings and justification for order establishing Butter Creek Critical Ground Water Area were sufficient. *Doherty v. Oregon Water Resources Director*, 308 Or 543, 783 P2d 519 (1989).