

WATER LAWS

543.610

NOTES OF DECISIONS

*It is highly doubtful that legislature in enacting statutory scheme relating to water power resources of state intended to include public utility districts within meaning of word "municipality" of this section. *Emerald PUD v. PP&L*, 76 Or App 583, 711 P2d 179 (1985), Sup Ct **review denied**.

LAW REVIEW CITATIONS: 46 OLR 126.

543.650

*LAW REVIEW CITATIONS: 16 EL 583, 592 (1986).

543.705

ATTY. GEN. OPINIONS: Abandonment of right to water in excess of amount specified in claim, 1958-60, p 121.

543.710

ATTY. GEN. OPINIONS: Authority to collect fees on pending applications to appropriate water, 1924-26, p 225; payment of fee as deferred because owner's husband is reserve officer, 1940-42, p 637; abandonment of right to water in excess of amount specified in claim, 1958-60, p 121.

543.720

NOTES OF DECISIONS

State Engineer's determination of questions of fact is entitled to great weight on appeal. *Appleton v. Ore. Iron & Steel Co.*, (1961) 229 Or 81, 358 P2d 260, 366 P2d 174.

An application under this section was in substance an application for a permit to use water. *Re Hood River*, (1924) 114 Or 112, 187, 227 P 1065.

ATTY. GEN. OPINIONS: Preference lien for delinquent license fees required to be paid for water power development as superior to lien of ad valorem taxes on real and personal property, 1942-44, p 156; abandonment of right to water in excess of amount specified in claim, 1958-60, p 121.

543.730

ATTY. GEN. OPINIONS: Abandonment of right to water in excess of amount specified in claim, 1958-60, p 121.

543.990

LAW REVIEW CITATIONS: 3 WLJ 300.

Chapter 549 Drainage and Flood Control Generally

549.110

NOTES OF DECISIONS

Jurisdiction is conferred by this section only to locate a ditch where there is none; the existing ditch of a proprietor may not be utilized. *Seely v. Sebastian*, (1870) 4 Or 25.

A right of way for the construction and maintenance of a drain to carry off the overflow of septic tank and waste water and sewage from a house was not acquired under this section. *Laurance v. Tucker*, (1939) 160 Or 474, 85 P2d 374.

FURTHER CITATIONS: *Harbison v. City of Hillsboro*, (1922) 103 Or 257, 204 P 613.

LAW REVIEW CITATIONS: 3 WLJ 296.

549.180

NOTES OF DECISIONS

The compensation mentioned in this section is in the nature of a contribution; it is distinct from the damages which the commissioners are authorized to assess for the cutting of a new ditch. *Seely v. Sebastian*, (1870) 4 Or 25.

FURTHER CITATIONS: *Harbison v. City of Hillsboro*, (1922) 103 Or 257, 204 P 613.

549.190

CASE CITATIONS: *Parkersville Drainage Dist. v. Wattier*, (1906) 48 Or 332, 86 P 775; *Re Hood River*, (1914) 114 Or 112, 227 P 1065.

549.380

ATTY. GEN. OPINIONS: Power of county to condemn land, 1956-58, p 159.

LAW REVIEW CITATIONS: 46 OLR 131, 132, 134.

549.390

LAW REVIEW CITATIONS: 46 OLR 136.

549.510

NOTES OF DECISIONS

This section is not unconstitutional as depriving persons of property without due process of law. *Waite v. Siuslaw Boom Co.*, (1925) 115 Or 316, 237 P 664.

Preliminary examination of the dike and notice to the delinquent landowner must be shown by the plaintiff. *Id.*

The jury properly determines the question as to whether the cost of repair was commensurate with the benefits to the defendant's land. *Id.*

The amount recovered of the delinquent landowner should not exceed the reasonable cost of repair. *Id.*

The questions as to reasonable value of labor and material, and as to whether plaintiffs paid therefor, were for the jury. *Id.*

The questions as to whether the plaintiff did unnecessary work, and as to whether his own dike was in good state of repair, were for the jury's determination. *Id.*

549.520

NOTES OF DECISIONS

Notice by county judge to delinquent landowner was sufficient. *Waite v. Siuslaw Boom Co.*, (1925) 115 Or 316, 237 P 664.

549.605 to 549.645

LAW REVIEW CITATIONS: 3 WLJ 313.