

**WATER COMPANIES ORGANIZED
UNDER 1891 ACT**

541.010 Furnishing of water for certain purposes declared to be a public use; rates; amendment of law. (1) The use of the water of the lakes and running streams of Oregon, for general rental, sale or distribution, for purposes of irrigation, and supplying water for household and domestic consumption, and watering livestock upon dry lands of the state, is a public use, and the right to collect rates or compensation for such use of water is a franchise. A use shall be deemed general within the purview of this section when the water appropriated is supplied to all persons whose lands lie adjacent to or within reach of the line of the ditch, canal or flume in which the water is conveyed, without discrimination other than priority of contract, upon payment of charges therefor, as long as there may be water to supply.

(2) Rates for the uses of water mentioned in this section may be fixed by the Legislative Assembly or by such officer as may be given that authority by the Legislative Assembly, but rates shall not be fixed lower than will allow the net profits of any ditch, canal, flume or system thereof to equal the prevailing legal rate of interest on the amount of money actually paid in and employed in the construction and operation of the ditch, canal, flume or system.

(3) This section and ORS 541.020 to 541.080 may at any time be amended by the Legislative Assembly, and commissioners for the management of water rights and the use of water may be appointed.

541.020 Construction of ditches and canals by corporation; route across lands. Whenever any corporation organized under the Act of 1891, pages 52 to 60, Oregon Laws 1891, finds it necessary to construct its ditch, canal, flume, distributing ditches, or feeders across the improved or occupied lands of another, it shall select the shortest and most direct route practicable, having reference to cost of construction upon which the ditch, canal, flume, distributing ditches, or feeders can be constructed with uniform or nearly uniform grade.

541.030 Ditches and canals across state lands; grant of right of way. The right of way, to the extent specified in the Act of 1891, pages 52 to 60, Oregon Laws 1891, for the ditches, canals, flumes, distributing ditches, and feeders of any corporation appropriating water under the provisions of the Act of 1891, across all lands belonging to the State of Oregon and not under contract of sale, is granted.

541.040 Headgate; mode of construction. Every corporation having constructed a ditch, canal or flume under the provisions of the Act of 1891, pages 52 to 60, Oregon Laws 1891, shall erect and keep in good repair a headgate at the head of its ditch, canal or flume, which, together with the necessary embankments, shall be of sufficient height and strength to control the water at all ordinary stages. The framework of the headgate shall be of timber not less than four inches square, and the bottom, sides and gate shall be of plank not less than two inches in thickness.

541.050 Leakage or overflow; liability; exception. Every corporation having constructed a ditch, canal, flume or reservoir under the provisions of the Act of 1891, pages 52 to 60, Oregon Laws 1891, shall be liable for all damages done to the persons or property of others, arising from leakage or overflow of water therefrom growing out of want of strength in the banks or walls, or negligence or want of care in the management of the ditch, canal, flume or reservoir. However, damage resulting from extraordinary and unforeseen action of the elements, or attributable in whole or in part to the wrongful interference of another with the ditch, canal, flume or reservoir, which may not be known to the corporation for such length of time as would enable it by the exercise of reasonable efforts to remedy the same, shall not be recovered against the corporation.

541.055 District liability for seepage and leakage from water or flood control works; limitation on commencement of action. (1) Any person or irrigation, drainage, water improvement or water control district organized pursuant to ORS chapter 545, 547, 552, 553 or 554 that owns, operates or maintains any irrigation, drainage, water supply, water control or flood control works shall be liable for damage caused by seepage and leakage from such works only to the extent that such damage is directly and proximately caused by the negligence of the person or irrigation, drainage, water improvement or water control district organized pursuant to ORS chapter 545, 547, 552, 553 or 554 and not otherwise. Damage resulting from extraordinary and unforeseen action of the elements, or attributable in whole or in part to the wrongful interference of another person or irrigation, drainage, water improvement or water control district organized pursuant to ORS chapter 545, 547, 552, 553 or 554 with the irrigation, drainage, water supply, water control or flood control works, which may not be known to the person or irrigation, drainage, water improvement or water control district organized pursuant to ORS chapter 545, 547, 552, 553