

established under ORS chapter 93. [1987 c.339 §1]

**540.670 Effect of cancellation of primary water right on supplemental right; change from supplemental to primary right; priority date.** (1) The cancellation of a primary water right for nonuse under ORS 540.641 shall not also cancel a supplemental water right unless the supplemental water right also has not been used beneficially for five or more years.

(2) If the Water Resources Commission cancels a primary water right under ORS 540.641 the commission may issue a new water right certificate changing the supplemental water right to a primary right if the commission finds that the change would not result in injury to existing water rights.

(3) A supplemental right changed to a primary right under subsection (2) of this section shall retain the priority date of the supplemental right. [1987 c.339 §2]

#### PROHIBITED ACTS; INJUNCTIONS

**540.710 Interference with headgate, or use of water denied by watermaster or other authority; evidence of guilt.** No person shall willfully open, close, change or interfere with any lawfully established headgate or water box without authority, or willfully use water or conduct water into or through the ditch of the person which has been lawfully denied the person by the watermaster or other competent authority. The possession or use of water when the same shall have been lawfully denied by the watermaster or other competent authority shall be prima facie evidence of the guilt of the person using it.

**540.720 Unauthorized use or waste of water; evidence of guilt of user.** No person shall use without authorization water to which another person is entitled, or willfully waste water to the detriment of another. The possession or use of such water without legal

right shall be prima facie evidence of the guilt of the person using it.

**540.730 Obstruction interfering with access to or use of works.** Whenever any appropriator of water has the lawful right of way for the storage, diversion, or carriage of water, no person shall place or maintain any obstruction that shall interfere with the use of the works, or prevent convenient access thereto.

**540.740 Injunctive relief against action of watermaster.** Any person who may be injured by the action of any watermaster may appeal to the circuit court for an injunction. The injunction shall only be issued in case it can be shown at the hearing that the watermaster has failed to carry into effect the order of the Water Resources Commission or decrees of the court determining the existing rights to the use of water. [Amended by 1985 c.673 §100]

**540.750 Injunction suits; notice; hearing.** In suits for injunction affecting the use of water from streams upon which the rights to water have been determined, no restraining order shall be granted before hearing had after at least three days' notice thereof, served upon all parties defendant. All suits for injunction involving the use of water shall be heard, either in term time or during vacation, not later than 15 days after issues joined, unless for good cause shown further time be allowed.

#### PENALTIES

**540.990 Penalties.** (1) Violation of any provision of ORS 540.440 is a Class C misdemeanor.

(2) Violation of any provision of ORS 540.370 (2), 540.570 (5), 540.710, 540.720 or 540.730 is a Class B misdemeanor. [Amended by 2001 c.788 §§7,13; 2003 c.14 §§344,345; 2003 c.705 §§19,21; 2011 c.597 §226]