

or 554 for such length of time as would enable the person or irrigation, drainage, water improvement or water control district organized pursuant to ORS chapter 545, 547, 552, 553 or 554 by the exercise of reasonable efforts to remedy the same, shall not be recovered against the person or irrigation, drainage, water improvement or water control district organized pursuant to ORS chapter 545, 547, 552, 553 or 554.

(2) An action or suit under subsection (1) of this section must be commenced within two years from the date when the damage is first discovered or in the exercise of reasonable care should have been discovered. However, in no event shall any such action or suit be commenced more than four years from the date the damage actually occurred. [1979 c.882 §1]

541.060 Waste of water; flooding premises; unnecessary diversion. 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 carefully keep and maintain the embankments and walls thereof, and of any reservoir constructed to be used in conjunction therewith, so as to prevent the water from wasting and from flooding or damaging the premises of others. The corporation shall not divert at any time any water for which it has no actual use or demand.

541.070 Ditches, canals and flumes as real estate. All ditches, canals and flumes permanently affixed to the soil, constructed under the provisions of the Act of 1891, pages 52 to 60, Oregon Laws 1891, are declared to be real estate, and the same or any interest therein shall be transferred by deed only, duly witnessed and acknowledged. The vendee of the same, or any interest therein, at any stage shall succeed to all the rights of the vendor, and shall be subject to the same liabilities during ownership.

541.080 Suits involving water rights; parties; decree as to priorities. In any suit commenced for the protection of rights to water acquired under the provisions of the Act of 1891, pages 52 to 60, Oregon Laws 1891, the plaintiff may make any or all persons who have diverted water from the same stream or source parties to the suit, and the court may in one decree determine the relative priorities and rights of all parties to the suit. Any person claiming a right on the stream or source, not made a party to the suit, may become such on application to the court, when it is made to appear that the person is interested in the result, and may have the right of the person determined. The court may at any stage, on its own motion,

require any persons having or claiming rights to water on the stream or source, to be brought in and made parties, when it appears that a complete determination of the issue involved cannot be made without their presence.

APPROPRIATION OF WATER FOR MINING AND ELECTRIC POWER UNDER 1899 ACT

541.110 Use of water to develop mineral resources and furnish power. The use of the water of the lakes and running streams of Oregon for the purpose of developing the mineral resources of the state and to furnish electric power for all purposes, is declared to be a public and beneficial use and a public necessity. Subject to the provisions of the Water Rights Act (as defined in ORS 537.010), the right to divert unappropriated waters of any such lakes or streams for such public and beneficial use is granted.

541.120 Ditches and canals through lands; use of existing ditch by others than owner; joint liability. No tract or parcel of improved or occupied land in this state shall, without the written consent of the owner, be subjected to the burden of two or more ditches, canals, flumes or pipelines constructed under the Act of 1899, pages 172 to 180, Oregon Laws 1899, for the purpose of conveying water through the property, when the same object can be feasibly and practically attained by uniting and conveying all the water necessary to be conveyed through such property in one ditch, canal, flume or pipeline. Any person having constructed a ditch, canal, flume or pipeline for the purpose provided in the Act of 1899 shall allow any other person to enlarge such ditch, canal, flume or pipeline, so as not to interfere with the operations of the person owning the same, and to use such ditch, canal, flume or pipeline in common with the person owning the same, upon payment to such person of a reasonable proportion of the cost of constructing and maintaining the ditch, canal, flume or pipeline. Such persons shall be jointly liable to any person damaged.

541.130 Right of way for ditches across state lands. The right of way to the extent specified in the Act of 1899, pages 172 to 180, Oregon Laws 1899, for the ditches, canals, flumes, pipelines, distributing ditches, and feeders of any person appropriating water under the provisions of that Act, across any and all lands belonging to the State of Oregon and not under contract of sale, is granted.

541.210 [Repealed by 1953 c.328 §2]