

WATER LAWS

Before the 1953 amendment, an adjudication of water rights governed the action of the watermaster. Unless a party could show such a right, he was not protected in diverting or using water by an authorization by the watermaster. *Brosnan v. Boggs*, (1921) 101 Or 472, 198 P 890.

Before the 1953 amendment, the watermaster was an administrative officer whose duty it was to distribute water according to the decree adjudicating water rights. *Norwood v. E. Ore. Land Co.*, (1932) 139 Or 25, 5 P2d 1057, 7 P2d 996.

Suit for injunction against watermaster was not an appropriate means to quiet title to water rights. *Calderwood v. Young*, (1957) 212 Or 197, 315 P2d 561, 319 P2d 184.

3. Subsection (5)

An unauthorized use of water constitutes waste which the watermaster is authorized to prevent. *Squaw Creek Irr. Dist. v. Manero*, (1923) 107 Or 291, 214 P 889.

The watermaster is duty bound to prevent unreasonable waste. *Bennett v. Salem & Guenther*, (1951) 192 Or 531, 235 P2d 772.

To prevent waste of water, the watermaster should have closed the headgates or arranged the apparatus which was in use. *Broughton v. Stricklin*, (1934) 146 Or 259, 28 P2d 219, 30 P2d 332.

FURTHER CITATIONS: *Krebs v. Perry*, (1930) 134 Or 290, 292 P 319, 293 P 432; *State v. Stewart*, (1939) 163 Or 585, 96 P2d 220.

ATTY. GEN. OPINIONS: Duty of State Engineer to regulate distribution of water, 1948-50, p 378.

LAW REVIEW CITATIONS: 46 OLR 245.

540.045

NOTES OF DECISIONS

*Watermaster's determination of permit limits constitutes final agency action by Water Resources Department. *Teel Irrigation District v. Water Resources Dept.*, 323 Or 663, 919 P2d 1172 (1996).

540.060

CASE CITATIONS: *State v. Chandler*, (1925) 113 Or 652, 654, 234 P 266.

540.080

NOTES OF DECISIONS

An "emergency" within the meaning of this section, entitling a watermaster to claim for services of assistants, was shown. *Brewster v. Crook County*, (1916) 81 Or 435, 439, 159 P 1031.

540.140

NOTES OF DECISIONS

The priorities established by this section were superseded by the adoption of the 1909 Water Act setting forth the doctrine of prior appropriation. *Phillips v. Gardner*, (1970) 2 Or App 423, 469 P2d 42.

LAW REVIEW CITATIONS: 3 WLJ 279.

540.210

LAW REVIEW CITATIONS: 3 WLJ 296, 297.

540.220

LAW REVIEW CITATIONS: 3 WLJ 296, 297.

540.230

LAW REVIEW CITATIONS: 3 WLJ 296, 297.

540.310 to 540.440

LAW REVIEW CITATIONS: 3 WLJ 296.

540.310

NOTES OF DECISIONS

*A person can be required to construct a headgate at his diversion point. *Vandehey v. Wheeler*, 13 Or App 25, 507 P2d 831 (1973), Sup Ct **review denied**.

*A person's "diversion point" is the location set forth in his respective water certificates and the point may be changed only by compliance with ORS 540.520, the statutory procedure for change. *Vandehey v. Wheeler*, 13 Or App 25, 507 P2d 831 (1973), Sup Ct **review denied**.

540.320

NOTES OF DECISIONS

*A person can be required to construct a headgate at his diversion point. *Vandehey v. Wheeler*, 13 Or App 25, 507 P2d 831 (1973), Sup Ct **review denied**.

540.350

ATTY. GEN. OPINIONS: Action against irrigation district for flood damage, 1960-62, p 204.

*Delegation of "engineering work" by a Water Resources Director, (1976) Vol 37, p 1484.

540.420

CASE CITATIONS: *McPhee v. Kelsey*, (1903) 44 Or 193, 74 P 401, 75 P 713; *Carnes v. Dalton*, (1910) 56 Or 596, 110 P 170; *Ison v. Sturgill*, (1910) 57 Or 109, 109 P 579, 110 P 535.

540.505

*LAW REVIEW CITATIONS: 36 EL 1383 (2006).

540.510 to 540.550

NOTES OF DECISIONS

*These sections provide that water right owner shall not change point of diversion unless he files application and complies with statutory procedures. *Huff v. Bretz*, 285 Or 507, 592 P2d 204 (1979).

*ATTY. GEN. OPINIONS: Right of downstream owners of appropriative water rights to continuation of the flow, (1973) Vol 36, p 318; application of water outside irrigation season or for use not authorized by permit, (1977) Vol 38, p 1045.

LAW REVIEW CITATIONS: 3 WLJ 296, 297.

540.510

NOTES OF DECISIONS

Riparian rights were not affected by the adoption of this section. *Norwood v. E. Ore. Land Co.*, (1924) 112 Or 106, 227 P 1111.