

H. PRIVATE DITCH POLICY

Protection of District Water Rights Beyond the District's Points of Delivery

A policy developed for the purpose of protecting the water rights past the District's Points of Delivery (POD) and establishing District procedures for implementing the policy as adopted in accordance with Oregon Revised Statutes (ORS). Chapters 540 and 545.

Policy Summary and Background:

- District is responsible to deliver the allotted water to its POD.
- Ditches beyond the POD are private ditches and are the responsibility of the landowner(s) on the ditch.
- District has authority to follow the water past the POD to operate, maintain and repair the private system.

Failure by private landowners to adequately maintain private ditches can prevent the beneficial use of water rights and can jeopardize the water rights subjecting them to cancellation or forfeiture. These situations require the District to expend a significant amount of staff time and resources to resolve and are a considerable financial burden on the District.

Some examples include:

- Lack of maintenance of private ditches, pipes and diversions
- Removal of vegetation, silt, debris
- Livestock damage to ditch
- Fences, crossings etc. collecting dead vegetation and debris
- Tree and shrub roots growing into ditch banks
 - Excessive ditch seepage
 - Inadequate infrastructure (headgates, measuring devices, pipe, ponds, pumps etc.)
 - Failure to comply with rotation schedules
 - Theft of water
 - Lack of communication/collaboration between users on the ditch
 - Denying or blocking user access
- Fences, aggressive livestock, dogs
 - Obstruction of flow to down-stream users
- Tarps, boards, rocks, pivot wheels, unmaintained ditches, cross-fences, etc.

Private Ditch Maintenance

Patrons are responsible for the maintenance and operation of their delivery systems and devices past the District's POD.

The District will notify patron(s) in writing of the need to maintain or repair the private delivery system on their property. "Maintain and/or repair" includes, but is not limited to removal of vegetation and silt, water delivery device(s), such as head gates, slide gates, tarps, or cutouts. Patron shall take required action within 10 days of notice, or provide written commitment within 10 days of notice of when work will be performed. Notice term shall be counted from the date the notice is mailed by the District to the Patron(s). See: ORS 540.420,440.

If the patron(s) does not comply with the procedure above, the District may perform such work and bill patron(s) accordingly as per: ORS 540.420, 430, 440; ORS 545.221, 237, 279, 287, 291, 293

Private Ditch Improvements

When District determines that a private ditch system must be upgraded to protect the District's water rights and/or improve efficient delivery of water to patrons, the District will follow the Management beyond the POD Staff Procedures document as applicable.

If a private delivery system needs to be improved, as evidenced by matters such as, but not limited to conflict, waste of water, inefficiency, or lack of beneficial use, the District may determine that an improvement to the system is necessary. See: ORS 540.420, 430, 440; ORS 545.221,237, 279,287,293

Options available include:

1. Landowners on the ditch perform (or contract) necessary work to District requirements and specifications.
2. District performs (or contracts) necessary maintenance work and bill patrons proportionately based on acres of water rights
3. Board resolution for significant improvements to private system (engineering and construction)
4. Formation of sub-district

Enforcement of Rotation Schedules and Access to Water

Patrons are responsible for keeping and following rotation schedules as set, and are prohibited from taking water outside the schedule unless arrangements are made with the District and/or other users on the rotation schedule. See: ORS 540.730, 545.291

- District shall set or approve rotation schedules for respective rotations individually on an annual basis.
- Request for rotation schedule changes is contingent upon written agreement between all users on the rotation schedule and approved by the District.
- At the start of a patron's scheduled time to receive water, it is the patron's right and responsibility to physically divert their water in accordance with the rotation schedule.
- Landowner(s) shall provide unobstructed and convenient access to diversion points for rotation partners and District staff.

- The patron is restricted to the right to divert only, and includes no other authority or act.
- If the District deems it necessary, it has the option to assign a staff person to distribute and apportion the water and may bill the patron's/landowner's for the expense.

Collections

District has the right and authority to bill, assess, collect and lien for all reasonable costs associated with issues beyond the POD.

Theft of Water

Policy is addressed in District Policies section B.

Note: All references to ORS are to current statutes in effect as of the date of adoption, and as they may be revised in the future.