



# Oregon Water Law

## The Water Code

*using Oregon's water beneficially*

Under Oregon law, all water belongs to the public. With few exceptions, any person wishing to take and use surface water or ground water must first obtain a permit from the Water Resources Department or have an existing water right authorizing the specific use desired. The "water right," once developed, is a type of property right and is attached to the land where it was established. Land with an attached water right may be several miles from the actual source of the water. In Oregon, landowners with water flowing past, through, or below their property do not automatically have a right to use that water.

## Prior Appropriation

*"first in time, first in right"*

Oregon's water laws are based on the principle of "prior appropriation." That is, the first person to obtain a water right to a water source is the last to be shut off in times of low water availability. When a person or group obtains a permit to use water, they are provided a "priority date"—this is their place in line when water becomes scarce.

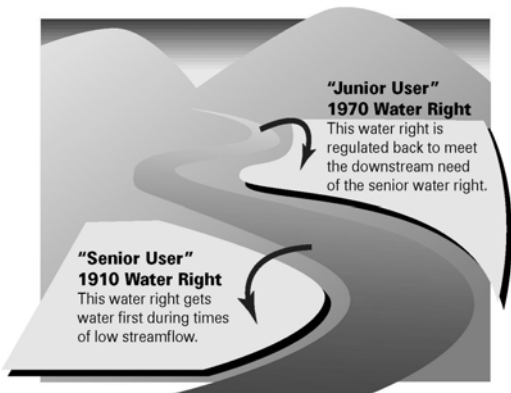
In water-short times, water users with the oldest priority date can demand the amount specified in their right regardless of the needs of junior users.

In some cases the Department may limit a junior water right in order to provide sufficient water for a more senior water right. If there is a surplus beyond the specified amount of the senior right holder, the person with the next oldest priority date can take their specified amount as necessary to satisfy their water right, and so on down the line until there is no surplus.

## Exempt Uses

*water uses that do not require a permit*

Some uses of water do not require a water right. For surface water these include: *natural springs* which do not flow off the property on which they originate, *stock watering*, *fire control*, *forest management*, and the collection of *rainwater*. Ground water exempt uses include: *stock watering*, less than one-half acre of *lawn and garden watering*, and *domestic water uses* of no more than 15,000 gallons per day. Consult the Department for more information about exempt uses.



## Oregon's water code contains four basic provisions:

- 1. Beneficial use:** surface or ground water may be legally diverted only if it is used under the terms of a valid water right for the beneficial purpose outlined in the water right.
- 2. Priority:** the more senior the water right, the longer water is available in a time of shortage.
- 3. Appurtenancy:** a water right certificate is attached to the land where it was established. If the land is sold, the water right goes with the land to the new owner. (This does not apply to water rights still in permit status.)
- 4. Must be used:** a water right is valid as long as it is used once every five years for its intended purpose. With few exceptions, if the right is unused for five consecutive years it is legally forfeited and subject to cancellation.

