

**TALENT IRRIGATION DISTRICT POLICY
ON WATER THEFT**

**EFFECTIVE WITH THE 2021-2022 FISCAL YEAR AND SHALL REMAIN IN EFFECT
INDEFINITELY**

The purpose of this resolution is to document the district's policy on dealing with people who take water without prior approval of the district. The following Oregon Revised Statutes apply:

ORS 164.125 Theft of services. (1) A person commits the crime of theft of services if: (b) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, the person uses or diverts to the use of the person or a third person such labor, equipment or facilities with intent to derive for the person or the third person a commercial benefit to which the person or the third person is not entitled. (2) As used in this section, "services" includes, but is not limited to, labor, professional services, toll facilities, transportation, communications service, entertainment, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. "Communication service" includes, but is not limited to, use of telephone, computer and cable television systems.

ORS 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.

ORS 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.

ORS 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.

ORS 540.990(2) Criminal penalties. Violation of any provision of ORS [540.570(5) not referenced herein], 540.710, 540.720 or 540.730 is a Class B misdemeanor.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

The first-time a district employee becomes aware of someone taking water without prior approval from the district, we will shut the water off and mail a letter to the property owner by Certified Mail – Return Receipt Requested and by regular mail. The letter will state they need to contact the district office and they may not irrigate until their next scheduled rotation.

The second time a district employee becomes aware of someone taking water without prior approval from the district, we will lock them out from taking water and will not allow any water deliveries until the property owner contacts the district to resolve the issue.

The third time a district employee becomes aware of someone taking water without prior approval from the district, we will lock them out from taking water and contact local law enforcement to report the wrongful conduct, which may include theft of services (ORS 164.125) and criminal violations under ORS Ch. 540.


The above penalties will also apply to any property owner who knowingly aids and abets another in taking water without prior approval from the district.

Notwithstanding the above, the district reserves the right to report someone to law enforcement for taking water without prior approval from the district or knowingly aiding and abetting another in doing so, in the first or second instance, in the sound discretion of the board based on any aggravating circumstances.

This policy is adopted by the Board of Directors of the Talent Irrigation District on November 2, 2021.



Mike Winters, President




Jeff Bohn, Vice President

vacant

_____, Director
Constituting the Board of Directors of the
Talent Irrigation District

ATTEST:



Wanda Derry Interim Secretary/Manager