

**WATER LAWS
OF THE STATE OF
TEXAS
THAT MAY BE
OF INTEREST
TO THE
WATER USERS
ON A
COMMUNITY DITCH**

THE FOLLOWING ARE SEVERAL WATER LAWS OF THE STATE OF TEXAS (*VERNON'S TEXAS CODES ANNOTATED*) THAT MAY BE OF INTEREST TO THE WATER USERS ON A COMMUNITY DITCH WHERE TWO OR MORE WATER USERS USE THE SAME DITCH.

11.040 PERMANENT WATER RIGHTS

- (a) A permanent water right is an easement and passes with the title to land.
- (b) A written instrument conveying a permanent water right may be recorded in the same manner as any other instrument relating to a conveyance of land.
- (c) The owner of a permanent water right is entitled to use water according to the terms of his contract. If there is no contract, the owner is entitled to use water at a just, reasonable, and nondiscriminatory price.

11.048 COST OF MAINTAINING AN IRRIGATION DITCH

- (a) If an irrigation ditch is owned or used by two or more persons, mutual or cooperative companies, or corporations, each party who has an interest in the ditch shall pay his proportionate share of the cost of operating and maintaining the ditch.
- (b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy.

11.083 OTHER UNLAWFUL TAKING

- (a) No person may wilfully open, close, change, or interfere with any headgate or water box without lawful authority.
- (b) No person may wilfully use water or conduct water through his ditch or upon his land unless he is entitled to do so.
- (c) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than six months.
- (d) The possession or use of water on his land by a person not entitled to the water by the provisions of this code is prima facie evidence of a violation of this section.

DEFINITION OF PRIMA FACIE: Immediately plain or clear.

WATER LAWS (continued)

11.086 OVERFLOW CAUSED BY DIVERSION OF WATER

- (a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.
- (b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

11.088 DESTRUCTION OF WATERWORKS

- (a) No person may willfully cut, dig, break down, destroy, or injure, or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another, and which is used for irrigation, milling, mining, manufacturing, the development of power, domestic purposes, or stock raising, with intent to:
 - (1) maliciously injure a person, association, corporation, water improvement or irrigation district;
 - (2) gain advantage for himself; or
 - (3) take or steal water or cause water to run out or waste out of the ditch, canal, or reservoir, feeder or flume for his own advantage, or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.
- (b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than two years or by both.

11.089 JOHNSON GRASS OR RUSSIAN THISTLE

- (a) No person who owns, leases, or operates a ditch, canal or reservoir or who cultivates land abutting a reservoir, ditch, flume, canal, wasteway, or lateral may permit Johnson Grass or Russian Thistle to go to seed on the waterway within 10 feet of the high-water line if the waterway crosses or lies on the land owned or controlled by him.
- (b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in the county jail for not less than 30 days nor more than six months or by both.

WATER LAWS (continued)

11.090 POLLUTING AND LITTERING

- (a) No person may deposit in any canal, lateral, reservoir, or lake used for a purpose named in this chapter, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, baling or barbed wire, earth, offal, or refuse of any character, or any other article which might pollute the water or obstruct the flow of a canal or similar structure.
- (b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100 or by confinement in the county jail for not more than six months or by both.

11.091 INTERFERENCE WITH DELIVERY OF WATER UNDER CONTRACT

- (a) No person may willfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 11.042 of this code.
- (b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.
- (c) A person commits a separate offense each day he continues to violate this section.
- (d) On the petition of any interested party, the district court of any county through which the water may pass shall enjoin any actual or threatened act prohibited by this section.

11.092 WASTEFUL USE OF WATER

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

- (1) permits the excessive or wasteful use of water by any of his agents or employees; or
- (2) permits the water to be applied to anything but a beneficial use.

11.093 ABATEMENT OF WASTE AS PUBLIC NUISANCE

- (a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste, and the commission may declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance.

WATER LAWS (continued)

11.093 ABATEMENT OF WASTE AS PUBLIC NUISANCE (continued)

- (b) In case of a wasteful use of water defined by Section 11.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected.

11.095 PENALTY FOR WASTE

A person who willfully or knowingly commits waste as provided in Section 11.092 and 11.093(a) of this code is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both.

49.221 RIGHT TO ENTER LAND

- (a) The directors, engineers, attorneys, agents, operators, and employees of a district or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district or the water supply corporation.
- (b) District employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

55.194 TRANSFER OF WATER RIGHTS

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as other land already in the district.

55.361 WATER SERVICE DISCONTINUED

If a landowner shall fail or refuse to pay any water assessment when due, his water supply shall be cut off, and no water shall be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire any interest in land for which assessments are due.

WATER LAWS (continued)

55.362 SUITS FOR DELINQUENT ASSESSMENTS

Suits for delinquent water assessments may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All landowners are personally liable for all assessments provided in this subchapter.

JUSTICES OF THE PEACE

<u>Upper Valley</u>	<u>Ysleta</u>	<u>Clint-Fabens</u>	<u>Clint-Fabens</u>	<u>Canutillo</u>
<u>Precinct #1</u>	<u>Precinct #5</u>	<u>Precinct #6-1</u>	<u>Precinct #6-2</u>	<u>Precinct #7</u>
Robert Pearson 424 Executive Suite 100 El Paso, TX 79902 534-3917	Monica Teran 1030 N. Zaragoza Rd #A El Paso, TX 79907 859-3744	Ruben Lujan 12708 Alameda (PO Box 597) Clint, TX 79836 851-2019	Rosie Dominguez 14608 Greg Dr. El Paso, TX 79938 855-3062	Bruce King PO Box 1936 Canutillo, TX 79835 886-2598

Your Justice of the Peace can help you pertaining to Section:

11.048 - COST OF MAINTAINING AN IRRIGATION DITCH of the water laws. You must follow the information as provided for in paragraph (b):

- (b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy.

NOTE: ALL OTHER LAWS THAT ARE PUNISHABLE BY A FINE AND/OR JAIL TIME MUST BE HANDLED BY YOUR LOCAL LAW ENFORCEMENT BY FILING A CRIMIAL REPORT.

