

# ARIZONA REVISED STATUTES

## Title 45 - Waters

### Chapter 1 – Administration and General Provisions

#### Article 8 - Reservoirs and Canals

##### 45-201. Construction of canals; eminent domain

An owner of arable and irrigable lands may construct public or private canals for carrying water and, when the canal necessarily runs through the lands of another, the right of way therefor through such lands may be acquired by condemnation under eminent domain.

##### 45-202. Opening fence without consent of owner; damages

A fence may be opened without consent of the owner in order to repair a public water ditch when it is necessary to use a team or vehicle to repair the ditch. On completion of the repair the fence shall be closed by the party opening it, and left as nearly as possible in the condition it was before the opening. The person opening the fence is liable for damages which occur by reason of the opening and entry.

##### 45-203. Head gates; measuring devices required on canals and reservoirs

A. The owner of a ditch or canal shall maintain at the point where the water is diverted a substantial head gate so constructed that it can be locked and kept closed by the water superintendent. An owner, when required by the director of water resources, shall construct and maintain measuring devices at points along the ditch to assist the water superintendent in determining the amount of water to be diverted into the ditch from the stream, or taken from it by the users.

B. The owner of a reservoir located across or upon the bed of a natural stream shall, when required by the director, construct and maintain a measuring device, approved by the director, below the reservoir, a gauge graduated to feet and tenths of feet inside the reservoir and a capacity table for the reservoir, and, if necessary, a measuring device above the reservoir on each source of supply discharging into the reservoir.

C. When necessary for the protection of other water users, the director may require flumes to be installed along the line of a ditch.

D. If the owner of irrigation works refuses or neglects to construct and maintain head gates, flumes or measuring devices after twenty days' notice, the director may close the ditch and it shall not be opened or water diverted from the source of supply until the requirements of the director have been complied with. If the owner of a reservoir located across the bed of a natural stream neglects to install such measuring device after twenty days' notice, the director may open the sluice gate or outlet of the reservoir and it shall not be closed until the measuring devices are installed. A person violating this subsection shall be punished as provided by section 45-112.

##### 45-204. Prohibition on canal owner to contract to carry water in excess of capacity of canal

A person owning or controlling a canal, flume or other means for carrying water from a stream or water supply to lands for irrigation of the lands, shall not contract to carry more water than the canal, flume or other means is estimated to carry at any one time, whether the contract is made for measured time or acreage quantity. Such person shall keep the canal, flume or other means in good repair and condition so that it will carry the full amount of water contracted to be carried or delivered.

##### 45-205. Failure of owner to clean canals and make repairs; lien for work done; release of lien; liability

A. When a person owning or controlling a canal, flume or other means for carrying water permits them, or the head gates at the dam or other appliances for securing the water at the head, to become disrepaired or reduced in capacity to an extent that they will not carry the amount of water contracted to be delivered to the users thereof, and does not within a reasonable time repair, clean or restore the canal, flume or other means of carrying the water, the users may, after six days' notice in writing to the owner or person in

control thereof, enter in and upon the canal, flume or other means, and make repairs, clean or restore any thereof.

B. The cost of repairs, cleaning or restoration shall be a lien on the canal, flume or other carrying means, enforceable as liens upon real property. Within thirty days after completion of the repairs, cleaning or restoration, a verified notice of the lien claimed, stating the expenditures actually made, itemizing the amounts expended and the purpose for which each was expended and stating the facts upon which the lien is claimed, shall be filed in the office of the county recorder of the county in which the work was done, and recorded in a book kept by him for that purpose.

C. When any lien established by this section has been satisfied, the lienholder shall, within thirty days after satisfaction, issue a release of the lien to the person against whom the lien was claimed. Such release shall be a recordable document. Failure to grant such a release shall subject the lienholder to liability in the amount of one thousand dollars and also to liability for actual damages.

**45-206. Widening and extending lateral ditches: definition**

A. A person owning an interest in common with another person in a lateral ditch constructed and used for irrigating, mining, milling or other useful and lawful purpose, may widen, deepen, border up or extend the lateral ditch by paying to his associates, and to the owner of the land through which the lateral ditch passes, a just compensation for damages to the land or growing crop occasioned by widening, deepening, bordering up or extending the lateral ditch.

B. "Lateral ditch" as used in this section means a private ditch leading from a main ditch or any of its branches receiving water from a river or original source of supply.