

TITLE 18
CRIMES AND PUNISHMENTS

CHAPTER 43
IRRIGATION WORKS

18-4301. INTERFERENCE WITH DITCHES, CANALS, LATERALS, DRAINS OR RESERVOIRS. Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, lateral, drain, flume or reservoir, used for the purpose of holding, draining or conveying water for manufacturing, agricultural, mining, or domestic uses, or who shall, without like authority, raise, lower, or otherwise disturb, any gate or other appurtenance thereof used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, lateral, drain, flume, or reservoir, any rubbish, filth, or obstruction to the free flow of water, is guilty of a misdemeanor.

[18-4301, added 1972, ch. 336, sec. 1, p. 933; am. 2002, ch. 115, sec. 1, p. 327.]

18-4302. WASTING WATER USED FOR IRRIGATION. Any person or persons, who shall wilfully or wantonly waste any of the waters of any stream, the waters of which are used for irrigation, to the detriment of any claimant of such water for irrigation purposes, by diverting the same for an unnecessary use or purpose, or by allowing such water to waste by running into depressions or dry channels so that the same cannot be used for irrigation, nor reach the original channel of the stream from which it has been diverted, are guilty of a misdemeanor.

[I.C., sec. 18-4302, as added by 1972, ch. 336, sec. 1, p. 933.]

18-4303. OBSTRUCTION OF OVERFLOW, GAUGE OR WATERWAY IN DAM. Any person or persons who shall obstruct any overflow, gauge or waterway, placed in any dam by order of any water master, so as to impede the flow of water over such dam as regulated by the water master, shall be guilty of a misdemeanor.

[18-4303, added 1972, ch. 336, sec. 1, p. 933.]

18-4304. WRONGFUL DIVERSION OF WATER. Any person who without the consent of the water master of the district, diverts any water from a ditch or channel where it has been placed, or caused or left to run by the water master or his deputies, or who shuts or opens any ditch, gate or dam, or in any way impedes or increases the flow of water in any stream or ditch diverting water from a stream, while the same is under the charge of a water master, or who cuts away any embankment of a stream, whereby the water of such stream is diverted, or breaks, injures, or removes any gate, flume or other device used for the equitable distribution of the water of such stream by the water master, shall be guilty of a misdemeanor.

[18-4304, added 1972, ch. 336, sec. 1, p. 933.]

18-4305. INTERFERENCE WITH HEADGATE -- CUTTING BANKS OF STREAM. If any obstruction shall be wilfully and maliciously placed on any overflow gauge in any stream of water which is used for irrigation and is under control of

a water master, and such obstruction retards or impedes the free overflow of the water of such stream, thereby increasing the pressure against a headgate through which water is diverted by means of such dam, or if any headgate regulated by a water master shall be removed, broken, injured or interfered with so as to disturb the distribution of the water as regulated by the water master, or if any bank of the natural stream, the water of which is being used for irrigation and is being distributed by a water master, shall be cut away so as to increase the flow of water from such stream, thereby interfering with the distribution of the water as regulated by a water master, the person or persons so interrupting the flow of said water as aforesaid, shall be guilty of a misdemeanor.

[18-4305, added 1972, ch. 336, sec. 1, p. 934.]

18-4306. INJURIES TO DITCHES, CANALS, LATERALS, DRAINS AND APPURTENANCES. Any person or persons, who shall willfully cut, break, damage, or in any way interfere with any ditch, canal, lateral, drain, headgate, or any other works in or appurtenant thereto, the property of another person, irrigation district, drainage district, canal company, corporation, or association of persons, and whereby water is conducted to any place for beneficial use or purposes, and when said canal, headgate, ditch, lateral, drain, dam, or appurtenance is being used or is to be used for said conduct or drainage of water, shall be guilty of a misdemeanor.

[18-4306, added 1972, ch. 336, sec. 1, p. 934; am. 2002, ch. 115, sec. 2, p. 327.]

18-4307. INJURY TO MEASURING DEVICES. Any person or persons who shall cut, break, injure, destroy, enlarge, change, or alter any headgate, sluiceway, weir, water box, or other measuring device, the property of any irrigation district, corporation or association of persons, or in the possession of, or in the use of, said irrigation district, corporation, or association, or the property of another, shall be guilty of a misdemeanor.

Any person or persons who shall change, alter, destroy, disturb, enlarge, or interfere with any headgate, dam, weir, water box, or other measuring device, made, placed, used or regulated by any duly appointed, elected, or authorized water master, deputy water master, ditch walker, ditch rider, engineer, or other authorized agent of any irrigation company, corporation or association or person, when said measuring device is being used or is to be used for the measurement of water, shall be guilty of a misdemeanor.

[18-4307, added 1972, ch. 336, sec. 1, p. 934.]

18-4308. CHANGE OF DITCH, CANAL, LATERAL, DRAIN OR BURIED IRRIGATION CONDUIT. Where any ditch, canal, lateral or drain has heretofore been, or may hereafter be, constructed across or beneath the lands of another, the person or persons owning or controlling the said land, shall have the right at his own expense to change said ditch, canal, lateral, drain or buried irrigation conduit to any other part of said land, but such change must be made in such a manner as not to impede the flow of the water therein, or to otherwise injure any person or persons using or interested in such ditch, canal, lateral, drain or buried irrigation conduit. Any increased operation and maintenance shall be the responsibility of the landowner who makes the change.

A landowner shall also have the right to bury the ditch, canal, lateral or drain of another in pipe on the landowner's property, provided that the pipe, installation and backfill reasonably meet standard specifications for such materials and construction, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done. The right and responsibility for operation and maintenance shall remain with the owner of the ditch, canal, lateral or drain, but the landowner shall be responsible for any increased operation and maintenance costs, including rehabilitation and replacement, unless otherwise agreed in writing with the owner.

The written permission of the owner of a ditch, canal, lateral, drain or buried irrigation conduit must first be obtained before it is changed or placed in buried pipe by the landowner.

While the owner of a ditch, canal, lateral, drain or buried irrigation conduit shall have no right to relocate it on the property of another without permission, a ditch, canal, lateral or drain owner shall have the right to place it in a buried conduit within the easement or right-of-way on the property of another in accordance with standard specifications for pipe, materials, installation and backfill, as set forth in the Idaho standards for public works construction or other standards recognized by the city or county in which the burying is to be done, and so long as the pipe and the construction is accomplished in a manner that the surface of the owner's property and the owner's use thereof is not disrupted and is restored to the condition of adjacent property as expeditiously as possible, but no longer than thirty (30) days after the completion of construction. A landowner shall have the right to direct that the conduit be relocated to a different route than the route of the ditch, canal, lateral or drain, provided that the landowner shall agree in writing to be responsible for any increased construction or future maintenance costs necessitated by said relocation. Maintenance of the buried conduit shall be the responsibility of the conduit owner.

Any person or persons who relocate or bury a ditch, canal, lateral or drain contrary to the provisions of this section shall be guilty of a misdemeanor.

[18-4308, added 1972, ch. 336, sec. 1, p. 934; am. 1994, ch. 151, sec. 2, p. 346; am. 2000, ch. 355, sec. 1, p. 1190; am. 2002, ch. 115, sec. 3, p. 327; am. 2005, ch. 331, sec. 2, p. 1040.]

18-4309. UNAUTHORIZED TAMPERING WITH MEASURING DEVICES. Every person who shall willfully waste water for irrigation, or who shall willfully open, close, change or disturb, or interfere with, any headgate or water box or valve or measuring or regulating device, without authority, shall be guilty of a misdemeanor. The water masters or their assistants, within their district, shall have power to arrest any person or persons offending and turn them over to the sheriff or the nearest peace officer of the county in which such offense is committed, and immediately upon delivering such person so arrested into the custody of either of such officers, it shall be the duty of the water master making such arrest to make complaint, in writing and under oath, before the magistrate judge of such county, against the person so arrested.

[I.C., sec. 18-4309, as added by 1972, ch. 336, sec. 1, p. 935; am. 2012, ch. 20, sec. 3, p. 67.]

18-4310. NEGLECT TO DELIVER WATER -- INTERFERENCE WITH DELIVERY. Any superintendent or any person having control or charge of the said ditch, canal or conduit, who shall wilfully neglect or refuse to deliver water as provided in chapter 9, of [title 42](#), or person or persons who shall prevent or interfere with the proper delivery of water to the person or persons having a right thereto, shall be guilty of a misdemeanor; and the owner or owners of such ditch, canal or conduit shall be liable in damages to the person or persons deprived of the use of water to which they were entitled as provided in said chapter 9.

[18-4310, added 1972, ch. 336, sec. 1, p. 935.]