

**42-325. Waste gate and tailrace where waters cause damage; discharge of water.** Every person, association or corporation owning or controlling any ditch, conduit or other works for the conveyance of waters, the water discharged wherefrom has been wont to or probably may flood or damage any road, highway or public grounds, or the lands of other proprietors, shall construct a waste gate and tailrace for discharging the waters of such ditch, conduit or other works into some other works for the conveyance of water, or into the stream wherefrom the same were diverted, or some other stream, ravine or water course, with as little waste or damage to other proprietors as may be: Provided, That such tailrace shall not be so constructed or placed as to convey water into any other such works, save by the consent of the proprietors thereof; and in every case the appropriator next in priority taking water from the same stream or source of supply, and whose ditch, conduit or other works lie below the place of discharge, shall be entitled to have such waste water: Provided further, That nothing in this section contained shall be so construed, nor shall this section be so administered, as to disturb the priorities among the appropriators, or so as to effect the diversion into the works of one appropriator of water to the use whereof another is entitled.

**History:** L. 1891, ch. 133, art. 4, § 5; May 20; R.S. 1923, 42-325.