

"Can I Use Water From This Stream?" Riparian Doctrine Information¹

PLEASE NOTE: The nonessential use prohibitions contained in 4 Pa. Code Chapter 119 apply to riparian users within the designated drought emergency area.

1. Water flowing in defined watercourses is treated under riparian doctrine¹.
2. Rights arise from ownership of real property underlying or bordering a stream or river.
3. A riparian right is the right to use water flowing in a stream on riparian land. No right to divert a specific quantity of water is obtained.
4. All rights to water use by a riparian owner depend upon the equal, correlative rights of other riparians to use of the common resource.
5. A riparian right to use surface water is generally confined to use of water on, and only on, riparian land. Riparian rights may be exercised on contiguous land so long as all of the lands are in the same watershed.
6. Rights to use water off riparian land may be acquired by public water supply agencies by obtaining a surface water allocation permit from the Department pursuant to the 1939 Water Rights Act.
7. A riparian may use all water necessary for domestic use (drinking, bathing, cooking, laundry, livestock watering, and other uses essential to the preservation of life and health). If there is insufficient flow to maintain all domestic and non-domestic uses, domestic uses have priority.
8. Non-domestic uses including irrigation, industrial, and commercial uses on riparian land are subject to the reasonable use doctrine. Riparian users are entitled to "reasonable use" which may cause some diminution of streamflow so long as other riparians are not "unreasonably" harmed.
9. Riparian water rights disputes are resolved through the courts (County Common Pleas).
10. Public interest may create exceptions to the general riparian priorities. A water shortage emergency may justify the taking of water for public water supply uses without regard to existing riparian rights.

¹ The preceding statements were compiled from the Advance Summary of Law of Surface Water Allocation in Pennsylvania-State Water Plan Background Report No. 4. Since riparian rights are governed by common law which is composed of doctrines and precedents established by the courts in individual cases read together, common law is subject to refinement and modification as new cases are litigated.