

Legal Standards for Storm Water Drainage in Ohio

A. Reasonable Use Rule – Surface Water

The Ohio Supreme Court has adopted the “reasonable use rule” as the basis for court decisions involving disposition of surface water. The most cited case on the subject is *McGlashan v. Spade Rockledge Corp.*, 62 Ohio St. 2d 55 (1980). "A possessor of land is not unqualifiedly privileged to deal with surface water as he pleases, nor is he absolutely prohibited from interfering with the natural flow of surface waters to the detriment of others. Each possessor is legally privileged to make a reasonable use of his land, even though the flow of surface waters is altered thereby and causes some harm to others. He incurs liability only when his harmful interference with the flow of surface water is unreasonable." In determining the reasonableness of an interference, the trier of fact is to be guided by the rules stated in 4 Restatement on Torts 2d 108-142, Sections 822 831."

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Is it reasonable to assume that a downstream party's action that causes harm (a change in dam classification) would also be liable for damages?

Would a court find the City liable because their approval of several houses in the high risk area caused the Ohio Department of Natural Resources to increase the Knox Cattle Dam from Class II to Class I?