

CHAPTER 535 - DAMS AND OTHER OBSTRUCTIONS

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NRS 535.005 Chapter does not authorize use of state land without authorization from State Land Registrar. Nothing in this chapter authorizes a person to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for such a use from the State Land Registrar.

(Added to NRS by [1993, 1460](#))

NRS 535.010 Construction, reconstruction or alteration of dam: Permit to appropriate water required; notice; approval of plans and specifications; inspection; exemptions; penalty.

1. Any person proposing to construct a dam in this state shall, before beginning construction, obtain from the State Engineer a permit to appropriate, store and use the water to be impounded by or diverted by the dam.

2. Any such person obtaining or possessing such a permit shall:

(a) Before constructing, reconstructing or altering in any way any dam, notify the State Engineer thereof; and

(b) Where the dam is or will be 20 feet or more in height, measured from the downstream toe to the crest of the dam, or is less than 20 feet in height and will impound more than 20 acre-feet of water, submit to the State Engineer in triplicate plans and specifications thereof for approval 30 days before construction is to begin.

3. The State Engineer shall examine such plans and specifications and if the State Engineer approves them the State Engineer shall return one copy with such approval to the applicant. If the State Engineer disapproves any part of the plans and specifications the State Engineer shall return them to the applicant for correction or revision.

4. The construction and use of any dam is prohibited before approval of the plans and specifications by the State Engineer.

5. The State Engineer may at any time inspect or cause to be inspected the construction work while it is in progress to determine that it is being done in accordance with the approved plans and specifications.

6. This section applies to new construction, reconstruction and alteration of old structures.

7. The provisions of this section relating to approval of plans and specifications and inspection of dams do not apply to works constructed by the United States Bureau of Reclamation or the United States Army Corps of Engineers; but such federal agencies shall file duplicate plans and specifications with the State Engineer.

8. Any person beginning the construction of any dam before approval of the plans and specifications by the State Engineer, or without having given the State Engineer 30 days' advance notice of any proposed change, reconstruction or alteration thereof, is guilty of a misdemeanor. Each day of violation of this section constitutes a separate offense and is separately punishable.

[Part 77 1/2:140:1913; added [1951, 132](#)] — (NRS A [1981, 1844; 1993, 206](#))

NRS 535.020 State Engineer to file copy of application to construct dam with Board of Wildlife Commissioners; installation of fishways; protection and preservation of fish.

1. Whenever an application for approval of plans and specifications for a new dam or for the alteration and enlargement of any dam in any stream in this state is filed with the State Engineer, the State Engineer shall file a copy of the application with the Board of Wildlife Commissioners.

2. In the construction of a dam, or the alteration or enlargement of a dam, the owner shall conform with the provisions of law for the installation of fishways over or around dams and for the protection and preservation of fish in streams obstructed by dams.

[Part 77 1/2:140:1913; added [1951, 132](#)] — (NRS A [1979, 913](#))

NRS 535.030 Inspection of dams by State Engineer; powers of State Engineer to protect life or property.

1. The State Engineer from time to time shall:

(a) Make inspections of dams at state expense for the purpose of determining their safety; and

(b) Require owners to perform at their expense such work as may be necessary to supply the State Engineer with information as to the safety of such dams.

2. The owners shall perform at their expense any other work necessary to maintenance and operation which will safeguard life and property.

3. If at any time the condition of any dam becomes so dangerous to the safety of life or property as not to permit sufficient time for the issuance and enforcement of an order relative to the maintenance or operation thereof, the State Engineer may, if he or she deems it necessary, immediately employ the following remedial measures to protect either life or property:

- (a) Lower the water level by releasing water from the reservoir.
- (b) Completely empty the reservoir.
- (c) Take such other steps as may be essential to safeguard life and property.

4. The provisions of this section shall not apply to works constructed by the United States Bureau of Reclamation or the United States Army Corps of Engineers.

[Part 77 1/2:140:1913; added [1951](#), [132](#)]

NRS 535.035 State Engineer, assistants and agents authorized to enter land to investigate and carry out duties. In addition to any inspection conducted pursuant to [NRS 535.010](#) or [535.030](#), the State Engineer or any assistant or authorized agent of the State Engineer may enter the land of any owner or proprietor where any dam or other obstruction is situated at any reasonable hour of the day to investigate and carry out the duties of the State Engineer pursuant to this chapter.

(Added to NRS by [2011](#), [507](#))

NRS 535.040 Statutes and performance of State Engineer's duties do not constitute warranty. The provisions of [NRS 535.010](#) to [535.035](#), inclusive, and the performance by the State Engineer of the duties of the State Engineer under them do not constitute a warranty in favor of anyone concerning the water to be impounded or diverted.

[Part 77 1/2:140:1913; added [1951](#), [132](#)] — (NRS A [1973](#), [1170](#); [1981](#), [1844](#); [2013](#), [3803](#))

NRS 535.050 State Engineer may order removal of dam, diversion works or obstruction; limitation; procedure; payment of costs.

1. The State Engineer has the right, power and authority to order the removal of any dam, diversion works or obstruction that has been placed in any stream channel or watercourse when the dam, diversion works or obstruction has not been legally established and recognized through a valid claim of vested right, by decree of court or by a permit issued by the State of Nevada.

2. Nothing in this section is to be construed as giving the State Engineer any right or authority to remove any dam or diversion works that has been so legally recognized and established.

3. If the dam, diversion works or obstruction has not been removed after 30 days' notice in writing given by the State Engineer and served upon the owner or person controlling the dam, diversion works or obstruction, or if no appeal has been taken from the order of the State Engineer as is provided for in [NRS 533.450](#), then the State Engineer may remove the dam, diversion works or obstruction.

4. The State Engineer shall charge the actual cost of that removal to the water distribution account and thereafter present an itemized statement of the charge to the board of county commissioners of the county wherein those expenses were incurred. The board of county commissioners shall thereupon present a bill for the expenses to the person liable therefor under this section, and if that person neglects for 30 days thereafter to pay it, the bill and costs become a lien upon the lands and property of the person so liable for the payment of the bill, and must be collected as delinquent taxes against the lands and property are collected.

[56 1/2:140:1913; added [1951](#), [132](#)] — (NRS A [1979](#), [670](#))

NRS 535.060 Obstruction of water by beaver's dam: Procedure for removal of beaver and dams.

1. On any stream system and its tributaries in this state the distribution of the waters of which are vested in the State Engineer by law or the final decree of court, where beaver, by the construction of dams or otherwise, are found to be interfering with the lawful and necessary distribution of water to the proper users thereof, the State Engineer, upon complaint of any interested water user, shall investigate or cause the investigation of the matter.

2. The State Engineer and his or her assistants and water commissioners and the Department of Wildlife and its agents may enter upon privately owned lands for the purposes of investigating the conditions complained of and the removal and trapping of beaver.

3. If satisfied that such beaver are interfering with the flow of water to the detriment of water users, the State Engineer shall serve a written notice on the owner of the land, if it is privately owned, stating:

(a) That the beaver thereon are interfering with or stopping the flow of water necessary for the proper serving of water rights; and

(b) That unless, within 10 days from receipt of the notice, written objection to the removal of such beaver is filed with the State Engineer by the landowner, the Department of Wildlife will remove such beaver or as many thereof as will rectify the existing conditions.

4. Failure of the landowner to file such written objections shall be deemed a waiver thereof. Upon receipt of written objections, the State Engineer may make further investigation and may sustain or overrule the objections as the facts warrant. Upon the overruling of the objections, the landowner may have them reviewed by the district court having jurisdiction of the land by filing therein a petition for review within 10 days from the receipt of the order of the State Engineer overruling the objections. The proceedings on the petition must be informal and heard by the court at the earliest possible moment.

5. Upon the landowner's waiver of objections to the removal of beaver from his or her land, or upon final determination by the court that the beaver should be removed, the State Engineer shall immediately notify the Department of Wildlife of the waiver or determination and the Department or its agents shall enter upon the land from which the beaver are to be removed and remove them or as many as may be necessary to prevent the improper flow of water as directed by the State Engineer.

6. The State Engineer may remove or cause the removal of any beaver dam found to be obstructing the proper and necessary flow of water to the detriment of water users.

[Part 1:61:1949; 1943 NCL § 3148.01] + [2:61:1949; 1943 NCL § 3148.02] — (NRS A [1969](#), [1561](#); [1979](#), [914](#); [1993](#), [1702](#); [2003](#), [1581](#))

NRS 535.070 Construction of weir in dam situated within 2 miles of incorporated city or town.

1. The term "water of such river," as used in this section, means the normal and natural flow of water in the river unaffected by flood, storm or other abnormal natural causes.

2. Any person owning, leasing or constructing any dam in any river of this State within 2 miles of an incorporated city governed by a board of county commissioners shall make or construct a weir in the dam of such size as to admit of the free passage of the water of such river during such portions of the year as such water is not being used for irrigating purposes.

3. If any person fails, neglects or refuses to comply with the provisions of subsection 2, the district attorney of the county wherein the dam is situated or being constructed shall commence mandamus proceedings to compel the person to comply with the provisions of

subsection 2, or the board of county commissioners of the county may order the weir to be constructed at the expense of the county, and the county has a right of action against the owner or lessee of the dam for all expenses incurred by the county in constructing the weir and may recover judgment on the right of action and satisfy the judgment in the manner provided by law.

4. The provisions of this section do not apply to dams constructed or being constructed or hereafter to be constructed for the purpose of permanently storing the waters of such river for beneficial purposes.

[1:182:1913; 1919 RL p. 2668; NCL § 8002] + [2:182:1913; 1919 RL p. 2669; NCL § 8003] + [3:182:1913; 1919 RL p. 2669; NCL § 8004] + [4:182:1913; 1919 RL p. 2669; NCL § 8005] — (NRS A [1987, 1725](#))

NRS 535.080 Attorney General and County Commissioners of Washoe County authorized to institute actions to maintain flow of Truckee River. The Attorney General and the Board of County Commissioners of Washoe County are authorized and empowered to commence suits or take such other action as may be necessary to maintain a regular or natural flow of water in the Truckee River, and in all suits so instituted, if necessary, to use the name of “The State of Nevada.”

[1:120:1879; cited BH § 5013; RL § 4140; NCL § 7326]

NRS 535.090 Unlawful obstruction of appropriator’s water; penalty.

1. Whenever any appropriator of water has the lawful right-of-way for the storage, diversion or carriage of water, it shall be unlawful to place or maintain any obstruction that shall interfere with the use of his or her works or prevent convenient access thereto.

2. Any person who violates any of the provisions of this section is guilty of a misdemeanor.

[82:140:1913; 1919 RL p. 3247; NCL § 7968] + [83:140:1913; 1919 RL p. 3247; NCL § 7969] — (NRS A [1967, 610](#))

NRS 535.100 Injury or obstruction of flow of water by sawmill, slaughterhouse, brewery or tannery; civil action.

1. Any person who is the owner of or in possession of any sawmill used for the making of lumber, or any slaughterhouse, brewery or tannery shall not injure or obstruct the natural flow of water in any river, creek or other stream.

2. Any city or county government, or any person, who is the owner of or in possession of any agricultural lands and who is injured by reason of the violation on the part of any person of the provisions contained in subsection 1 may commence and maintain an action against the person for any damage sustained, in such manner as may be provided by law.

[Part 1:98:1862; B § 3847; BH § 353; C § 432; RL § 4718; NCL § 8248] + [2:98:1862; B § 3848; BH § 354; C § 433; RL § 4719; NCL § 8249] + [3:98:1862; B § 3849; BH § 355; C § 434; RL § 4720; NCL § 8250] — (NRS A [1967, 610; 2007, 2022](#))

NRS 535.110 Unlawful removal, damage or destruction of piling, dike, dock or lock; unlawful structures.

1. Every person who willfully and maliciously removes, damages or destroys a pile or other material fixed in the ground and used for securing any bank or dam of any river or other water, or any dike, dock, quay, jetty or lock is guilty of a misdemeanor.

2. Every person who:

(a) Moors any vessel, scow, barge, raft or boom to any bridge; or

(b) Erects or maintains any unlawful structure in any stream or river,

is guilty of a misdemeanor.

[Part 1911; C&P § 487; RL § 6752; NCL § 10434] — (NRS A [1993, 864](#))

NRS 535.200 Additional penalties.

1. In addition to any other penalty provided by law, the State Engineer may, after notice and opportunity for a hearing, require a person who violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to [NRS 532.120](#) to pay an administrative fine not to exceed \$10,000 per day for each violation as determined by the State Engineer.

2. If an administrative fine is imposed against a person pursuant to subsection 1, the State Engineer may require the person to pay the costs of the proceeding, including investigative costs and attorney’s fees.

3. An order imposing an administrative fine or requiring the payment of costs or fees pursuant to this section may be reviewed by a district court pursuant to [NRS 533.450](#).

(Added to NRS by [2007, 2021](#))

NRS 535.210 Injunctive and other relief.

1. The State Engineer may seek injunctive relief in the appropriate court to prevent the continuance or occurrence of any act or practice which violates any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to [NRS 532.120](#).

2. On a showing by the State Engineer that a person is engaged, or is about to engage, in any act or practice which violates or will violate any provision of this chapter, any permit, order or decision issued by the State Engineer pursuant to this chapter or any regulation adopted by the State Engineer pursuant to [NRS 532.120](#), the court may issue, without a bond, any prohibitory or mandatory injunction that the facts may warrant, including a temporary restraining order issued ex parte or, after notice and hearing, a preliminary or permanent injunction.

3. Failure to establish lack of an adequate remedy at law or irreparable harm is not a ground for denying a request for a temporary restraining order or injunction.

4. The court may require the posting of a sufficient performance bond or other security to ensure compliance with the court order within the period prescribed.

5. Any proceeding conducted or injunction or order issued pursuant to this section is in addition to, and not in lieu of, any other penalty or remedy available for a violation of this chapter.

(Added to NRS by [2007, 2021](#))