

Chapter 6155: REMOVAL OF MILLDAMS

6155.01 Application for removal of milldam.

Applications by the owners of lands adjoining or adjacent to a stream of living water for the removal of a milldam therein shall be made by filing with the county auditor a petition signed by at least two thirds of said owners, stating the necessity for such improvement and the removal of the milldam, with a sufficient bond with sureties to the acceptance of the auditor, conditioned to pay all expenses incurred in case the board of county commissioners refuses to grant the prayer of the petition.

Effective Date: 10-01-1953 .

6155.02 Notice of petition for removal.

The county auditor shall give notice to the board of county commissioners of the filing and pendency of the petition provided for in section [6155.01](#) of the Revised Code, and the board shall forthwith designate when and where it will meet to hear the petition and complete its proceedings thereon.

Effective Date: 10-01-1953 .

6155.03 Notice of hearing on petition.

The principal petitioner under section [6155.01](#) of the Revised Code shall give notice in writing of the filing, pendency, and time of hearing of the petition to the owners of each of the tracts of land sought to be affected by the proceedings. Such notice shall be served not less than ten days before the day fixed for the hearing of the petition, and the original verified notice shall be filed with the county auditor on or before the day of the hearing.

Effective Date: 10-01-1953 .

6155.04 Adjournment of hearing.

On the day set for the hearing of a petition for the removal of a milldam, if it appears to the board of county commissioners that a person interested in the improvement and in the removal of the milldam has not been notified, or that any requisite preliminary steps have not been taken, it shall adjourn the hearing to a future time, not exceeding twenty days, and shall order such notice to be given or such preliminary steps to be taken.

Effective Date: 10-01-1953 .

6155.05 Hearing - view of premises.

If the board of county commissioners finds that the bond provided for in section [6155.01](#) of the Revised Code has been filed and notice given as required by section [6155.03](#) of the Revised Code, it shall hear and determine the petition and view the premises along the proposed improvement and the lands of the petitioners and others affected by the milldam. If it finds that such improvement and removal of the milldam will be conducive to the public health, convenience, or welfare, it shall report its finding in writing and order the county auditor to enter it on the journal of the board.

Effective Date: 10-01-1953 .

6155.06 Purchase of milldam.

The board of county commissioners shall forthwith negotiate for the purchase of the milldam sought to be removed under section [6155.01](#) of the Revised Code and of all the right, title, and interest the owner has to or in it, and all franchises pertaining thereto. The board shall receive in writing the terms on which the owner will grant the absolute right to remove such milldam and for the free passage of water in the channel of such stream.

Effective Date: 10-01-1953 .

6155.07 Further hearing.

After negotiating with the owner as provided in section [6155.06](#) of the Revised Code, the board of county commissioners shall fix a day for further hearing, and order that notice of the time and place of said hearing be served in writing by the principal petitioner upon each of the petitioners or any other person interested in the improvement or the removal of the milldam. If on the hearing it appears to the board that such notice has not been given, it shall adjourn to a future time, not exceeding twenty days, and order it to be given.

Effective Date: 10-01-1953 .

6155.08 Final hearing - record of proceedings.

On the day fixed by the board of county commissioners for final hearing as provided in section [6155.07](#) of the Revised Code, it shall meet at the time and place appointed and make known to the petitioners the amount asked by the owner of the milldam for his right, title, and interest to and in it and the franchise pertaining thereto and for the right to remove it. Such board shall also make known the necessary cost of removing such milldam, as estimated by the county engineer, with all other taxable costs of the proceedings. Upon such statement, if no objections are made thereto by any of the petitioners, the board shall make a record thereof.

Effective Date: 10-01-1953 .

6155.09 Apportionment of costs of proceedings.

The board of county commissioners shall apportion to each of the petitioners under section [6155.01](#) of the Revised Code and all other landowners benefited by the removal of the milldam, in an equitable manner, according to the benefits to be derived therefrom, the costs of the proceedings, as in county ditch cases, the amount asked by the owner of the milldam and agreed upon, and the amount of cost necessary to its removal, as reported by the county engineer.

Effective Date: 10-01-1953 .

6155.10 Appeal procedure.

Upon failure to agree with the owner of the milldam sought to be removed under section [6155.01](#) of the Revised Code, or if there has been agreement but objections are made thereto by the petitioners, then the proceedings as to appeals, applications for damages, and in all other respects, taken to determine the amount of damages to be awarded to landowners affected, shall be as is provided by law for the location and establishment of county ditches. If the lands affected are situated in two or more counties, the proceedings shall be governed by said law.

Effective Date: 10-01-1953 .

6155.11 Assessment of costs.

The board of county commissioners shall order the amounts, as provided in section [6155.09](#) of the Revised Code, to be placed upon the tax duplicate against the real estate of the petitioners and all other landowners benefited by the removal of the milldam. Such amounts shall be collected within the time and to meet the payments as far as practicable as provided in the laws relating to county ditches, whether agreed upon between the board and the milldam owner or fixed by the board or otherwise pursuant to such laws, adding to the first year's assessment the taxable costs of the proceedings and the estimated costs of removing the milldam.

Effective Date: 10-01-1953 .

6155.12 Collection of assessments.

The assessments provided for in section [6155.11](#) of the Revised Code shall be collected as other assessments against real estate and paid into the treasury of the county wherein the petitioners reside and the milldam is situated. They shall be paid out by the county treasurer on the warrant of the county auditor, who shall issue his warrants in accordance with the records and orders of the board of county commissioners.

Effective Date: 10-01-1953 .

6155.13 Sale of removal work.

The county engineer shall sell at public sale and supervise the work of removing the milldam in the manner provided by law for the sale of the work of constructing a county ditch and the other duties of the engineer in respect to such ditches.

Effective Date: 10-01-1953 .