

The Idaho Department of Fish and Game considers the following document to be an agency guidance document for purposes of Idaho Executive Order 2020-002. The guidance document is not new law; it is the Department's interpretation or implementation of existing law.

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IDAHO DEPARTMENT OF FISH AND GAME

Handling Beaver Complaints Involving Water Rights PROCEDURE NO.: WLD-4.0

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In some instances, beaver depredation complaints have resulted from an upstream dam that is purported to be causing water loss to a valid downstream water right. In such cases, the conservation officer will service the complaint according to the following guidelines:

- A. **If both** the upstream landowner (where the dam is located) and the downstream landowner (complainant) **agree** that the dam should be removed, a Conservation Officer will service the complaint. Removal by hand or with the use of explosives, if the explosives do not materially change the channel itself. The Idaho Department of Water Resources (IDWR) has determined that removal of depredation beaver dams falls under the clearing and snagging category and does not require a stream alteration permit.
- B. **If** the upstream landowner **does not agree** that the dam on his property is causing water to be diminished downstream, the Conservation Officer will contact IDWR.
 1. If IDWR determines the dam is located in a water district and the complaint occurs during the water delivery period, the IDWR or local water master can monitor flows above and below the dam to determine if a water loss is occurring. If a loss is occurring, the Department of Water Resources can instruct the water master to remove the problem dam with Idaho Department of Fish and Game assistance, whether on private or public land (42-607, Idaho Code).
 2. **If no water loss is occurring, there is no basis for the complaint and the Conservation Officer will not take action.**
 3. **If IDWR determines the complaint dam is not in a water district or if it is not during the water delivery period, it becomes a civil matter between the upstream landowner and the complainant.** The Conservation Officer will **not** service the complaint unless:
 - a. A court decision is handed down directing removal of the complaint dam and beaver.
 - b. Upstream landowner (with complaint dam) grants permission to the officer to remove the complaint beaver and dam.

The above guidelines apply, whether the complaint dam occurs on private or public ground.

In all situations where the complaint dam occurs on public land, the Conservation Officer will contact field representatives of the agency involved, notify them of the problem, and arrive at a solution to the complaint using these guidelines, as necessary.

The question of water rights can be complicated. Use **the above guidelines** for handling beaver depredations involving water rights, but remember **they are not a substitute for good judgment**. If questions arise, consult your supervisor.