



STATE OF NEVADA

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WATER RESOURCES

GUIDELINES FOR ENCUMBERING OWNERSHIP OF WATER RIGHTS

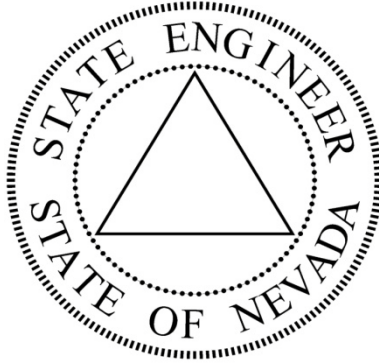
Notice for Lenders

STATE ENGINEER'S OFFICE

DEEDS SECTION

JASON KING, P.E., STATE ENGINEER

water.nv.gov



The State Engineer is authorized and is responsible for maintaining water right files and accompanying documents as per Nevada Revised Statutes Chapters 111, 240, 375, 532, 533 and 534.

By Nevada Revised Statute 111.167, *water rights are presumed to transfer with the land to which appurtenant*, unless the Grantor in conveyance documents ***specifically reserves the water rights***.

The Division of Water Resources accommodates lenders to place encumbrances in water right records. This action in effect puts a procedural hold on Applications to Change the Point of Diversion (POD) or Place of Use (POU) which would transfer water outside of an encumbered land description without first requiring permission of the lender or with the filing of a Reconveyance Deed to release the lien. An encumbering document is any instrument that legally secures interest in real property by operation of law through the foreclosure process.

As with land, water rights are considered “real property” and similar procedures are required to convey ownership or security interest. Although documents conveying title to land and water are required to be recorded in the County Recorder’s Office, the County Recorder does not forward copies of such documentation to the State Engineer’s Office. It is the new owner’s responsibility to file such documents with the State Engineer’s Office in a timely manner according to law.

A *Report of Conveyance* (ROC), form, revised September 2016, is now a dual-purpose form, which provides both water right holders and lenders (beneficiaries) a method to either update title and/or to place security instruments in the record. Although these different types of submittals are not usually placed by the same parties, we now have made it easier to use a single form for both purposes as the information is mostly the same, except for names and addresses. While new possessors become the new owners at Item 3, new lenders are new beneficiaries at Item 3. The Division’s ownership records track both ownership and security interests in a composite Abstract of Title. Conveyances are either for title transfer or security interests and are changed by requisite documents being Deeds, Decrees of Distribution, or other legal instruments for title transfer, and Deeds of Trust, Assignments of Deeds of Trust, and Deeds of Reconveyance for security interests. Deeds of Trust do not convey title (or possession), but only the security interest in the Promissory Note signed at culmination of the escrow process. The grantor in the Deed of Trust is the buyer or the Grantee in the Title Deed, while the Beneficiary is the lender receiving payments, and the Trustee is the third party entity usually providing escrow and default services as well as possible title insurance on the land, but not on the water.

Encumbrances can be filed by one of two methods:

1) Using the same Report of Conveyance form and Abstract of Title as for a transfer of title.

The reporting process requires the party requesting a change of title from the currently recognized holder to submit a complete conveyance packet consisting of:

1. A notarized *Report of Conveyance* form that identifies the application, permit, proof, or claim information, one form per water right must be completed.
2. An *Abstract of Title* that catalogues the *Deed of Trust* and/ or other documents which support a valid security interest to the new beneficiary, (this requirement is waived when submitting only one Deed of Trust) and
3. Copies of all documents listed on the *Abstract of Title* that have not been filed previously with the Office of the State Engineer and any other pertinent information as required. Documents filed previously may be shown as "A.o.F."(already on file) with the file number first submitted to avoid excessive copying. Already on File documents will still be charged a document filing fee when listed in the abstract for another water right. Please note that when submitting several reports of conveyance for water rights having the same chain of title, only one copy of each submitted document is needed. **DO NOT SUBMIT MORE THAN ONE COPY OF A DOCUMENT AT A TIME.** Extra copies will not be returned.
4. Line Items 9, 10, and 11 can be left blank for the water amounts unless only for a portion.
5. Payment of statutory fees of a one-time \$120 filing fee and \$20 per document per water right file number.
6. This method generates a **Confirmation Letter** recognizing the encumbrance once it is processed, which can take some time, whereas the below method does not include this service. Either method entitles you to receive notices that may affect your security interest such as extensions of time for proofs of completion, beneficial use, non-use, etc. and the filing of change applications.
7. The filing charges for this method is for a higher level of service placing each document into the chain of title abstract, depiction of the encumbrance on the Summary of Ownership, shown in the Remarks field, and inclusion into the official mailing list as a correspondent to receive notices.

2) Instrument Filing Fee method-*Notice of Pledge* referencing the recorded *Deed of Trust* Instrument.

A blank *Notice of Pledge (NOP)* form is available for download in our Forms tab as a writable .pdf file. Use of this form replaces the need to furnish a lengthier *Deed of Trust* document to us, however, you will need to provide **duplicate originals** of the signed *Notice*. Since the *Notice of Pledge* requires original signatures from both parties, it does not need to be notarized but does need to reference the recording information of the *Deed of Trust* as to document number, date, and county. Try to avoid using attachment pages for the list of water rights and keep it to one page whenever possible. Incomplete submittals will be returned.

1. Two identical **NOP forms** must be signed by both the lender and the borrower, *not in counterparts please*, and then photocopied. One of the signed originals (marked as such) is needed in the lowest serialized water right file. Provide one copy for each additional water right file listed to be encumbered. The second signed **duplicate original** will be approved (signed) by our clerical staff and returned to the addressee as evidence of receipt by DWR. (i.e. to encumber 10 files under the referenced *Deed of Trust*, we need two originals and 9 copies.)
2. Also enclose a **Self Addressed Stamped Envelope (SASE)** for this purpose for return mail.
3. Submittal by this method does insert the copies in each water right file quicker than the above method, but does not generate a confirmation letter: the time stamped copy serves as evidence of our receipt.
4. If copies for each file are not included, we will charge for copying before filing and this will delay the process. See the completed **NOP** example form at the end of this document.

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5. Fees for this simplified method are \$10.00 for each file/copy. The **NOP** is flagged in the file and not incorporated into the full abstract of title until the next conveyance occurs, but is stamped **ENCUMBERED** on the summary and referenced in the *Remarks* field in the permits database.

What else is required in either case?

- a. Encumbrances remain on record until a *Deed of Reconveyance* is filed by the trustee/beneficiary after loan payoff with the county recorder(s). *Please ensure that a photocopy is forwarded to this office within 30 days after recording.* There is no charge or any other forms needed for this.
- b. When water rights that have been encumbered attempt to change the Point of Diversion without changing the Place of Use (POU), the encumbrances are normally carried forward into the next generation of Applications To Change as is necessary without new filings. These can be verified by reviewing the title and ownership tab in the Permits database for each water right as per #5 above.
- c. When multiple addresses for noticee's are used, be clear as to which office is to receive the future mail when entering the addresses in the model form, if different from the SASE address.

The Office of the State Engineer will not consider or treat a person as an owner of the water right until the report is confirmed, including notifications, in granting of permits to change the point of diversion, place of use, or manner of use, etc. The State Engineer is not required to confirm a new owner of record where conflicts in the chain of title exist and/or if the duty or rate of diversion cannot be determined from the documentation filed. Reports returned with a notice of any deficiencies will be rejected unless the required information is supplied to cure the deficiency within the required period. The Office of the State Engineer may waive specific requirements and may require additional supporting information, if circumstances warrant.

As per NRS 534.382 Conveyance deeds must be recorded at the proper county recorder's office(s) before acceptance by the Division. Any deed not recorded with a county recorder is deemed void after October 1, 1995 against a subsequent purchaser who in good faith purchased the same water right and recorded his deed with the county recorder according to state law. The recording requirement establishes proof of constructive notice for valid recognition in the Office of the State Engineer to facilitate orderly processing. County recorder offices usually require several weeks to return original documents after submittal for recording. Please submit only copies of recorded originals and not conformed copies that can render some text unreadable.

*Effective July 1, 2003 NRS 111.312 and 247.110 recording requirements have been limited to paper size 8½" x 11", requires 1" margins, APN's on upper left corner of first page, Grantee address, and blank 3" x 3" recording block in upper right hand corner of first page. Documents not conforming to this criterion are subject to a \$25.00 surcharge in addition to regular recording charges.

The Office of the State Engineer, Division of Water Resources, reviews only the information that has been filed and may amend or update water right ownership upon receipt of additional information. All forms used by the Division of Water Resources are now available for downloading from our website at <http://water.nv.gov>. It includes both a **Titles database** useful for tracking progress of ROC submittals and a **Permits database** with ownership information, certificates, abrogations, relinquishments, etc. Any questions pertaining to deeds and R.O.C. submittals can be directed to the Deeds Section of the Division of Water Resources, 901 S. Stewart St. Ste. 2002, Carson City, NV 89701-5250, or call 775-684-2800.

Please contact the Deeds Section for more information concerning filing of encumbrances.

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NOTICE OF PLEDGE

State of Nevada
Division of Water Resources
901 S. Stewart Street
Carson City, Nevada 89701

Attn: State Engineer

Please be notified that the undersigned have this date executed a DEED OF TRUST in favor of Tahoe National Bank covering certain land in Carson City County, Nevada together with all of the Trustor's right to any and/or all water rights, ditch and ditch rights, appurtenant to the described land, including, but not limited to, water from an underground source as listed below:
12345 (Cert. 6789), 45678 (Cert. 1234), 67891 (Cert. 5678), Permit 78912

Proofs V00101, V00102, V00103, V00104

Decreed Claims of the Truckee River: Claims 576, 577, 578, 602, 607, 846a

(See attached legal description and water right information in Exhibit A.)

The said DEED OF TRUST, given to secure a promissory note of even date, was recorded June 14, 2016 in the Office of the County Recorder of Carson City County as Instrument No. 061432 in Book No. 614, Page(s) 321

Please file this notice with your records of the above-referenced water rights and direct any notices of the intended change of the Place of Use (P.O.U.), Manner of Use (M.O.U.), or Point of Diversion (P.O.D.), or any other matter which materially affects the beneficiary's security interest in the said rights to Tahoe-Truckee National Bank
3456 Main Street, Truckee, CA 96160

Dated this 4 day of July, 20 16

Alexander Hammitz - Vice Pres.
Institutional Officer's Signature or Beneficiary and Title

Casey Berry Casey Berry
Trustor's Signature and Printed Name

Trustor's Signature and Printed Name

Trustor's Signature and Printed Name

Receipt of this **Notice of Pledge** is hereby acknowledged with the signature of a duly qualified employee of the Division of Water Resources. An original copy, signed by Trustor's and Beneficiary's listed above, of this notation of the 100 % security interest in the above referenced water rights will be placed in the files of the Division of Water Resources. After DWR signing of both *duplicate original* copies, please return one original copy to Tahoe Bank and Trust Company, Inc.
PO Box 101 Reno, NV 89502

Beneficiary hereby agrees to keep the DWR office notified of any changes of address and to forward any reconveyances within 30 days of proper recording dates to release the above encumbrance in the ownership records.

Date

DWR Employees Signature

Title