

Effective 11/6/2025

73-1-8 Duties of owners or operators -- Bridges and trails -- Liability.

- (1) As used in this section:
 - (a) "Water facility" means a dam, pipeline, culvert, flume, conduit, ditch, head gate, canal, reservoir, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, containment, or storage of irrigation water.
 - (b) "Water facility" does not mean a facility used primarily as part of a:
 - (i) public water system as defined in Section 19-4-102; or
 - (ii) residential irrigation system.
- (2) An owner or operator of a water facility shall:
 - (a) maintain the water facility to prevent waste of water, damage to property, or injury to others; and
 - (b) by bridge or otherwise, keep the water facility in good repair where the water facility crosses a public road or highway to prevent obstruction to travel or damage or overflow on the public road or highway.
- (3) Subsection (2)(b) does not apply where a governmental entity maintains or elects to maintain a bridge or other device to prevent obstruction to travel or damage or overflow on the public road or highway.
- (4) In addition to immunity if the conditions of Title 57, Chapter 14, Limitations on Landowner Liability, are met, an owner or operator of a water facility, stream, or river, is immune from suit if:
 - (a) the damage or personal injury arises out of, is in connection with, or results from the use of a trail that is located along a water facility, stream, or river, regardless of ownership or operation of the water facility, stream, or river;
 - (b) the trail is designated under a general plan adopted by a municipality under Section 10-20-401 or by a county under Section 17-79-401;
 - (c) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between the owner or operator of the trail right-of-way, or of the right-of-way where the trail is located, and the municipality or county where the trail is located; and
 - (d) the written agreement:
 - (i) contains a plan for operation and maintenance of the trail; and
 - (ii) provides that an owner or operator of the trail right-of-way, or of the right-of-way where the trail is located has, at minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from use of the trail.
- (5)
 - (a) The duty under Subsection (2) requires only reasonable and ordinary care and may not be construed to impose strict liability or to otherwise increase the liability of the owner or operator of a water facility.
 - (b) An owner or operator of a water facility is not liable for damage or injury caused by:
 - (i) the diversion or discharge of water or another substance into the water facility by a third party beyond the control of the owner or operator of the water facility, including control exercised by the owner's or operator's employees or agents;
 - (ii) any other act or omission of a third party that is beyond the control of the owner or operator of the water facility, including control exercised by the owner's or operator's employees or agents; or
 - (iii) an act of God, including fire, earthquake, storm, flash floods, or similar natural occurrences.

- (6) This section may not be interpreted to impair a defense that an owner or operator of a water facility may assert in a civil action.

Amended by Chapter 15, 2025 Special Session 1