

Superseded 5/12/2015

73-3-8 Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals.

- (1)
 - (a) It shall be the duty of the state engineer to approve an application if:
 - (i) there is unappropriated water in the proposed source;
 - (ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;
 - (iii) the proposed plan is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation, and would not prove detrimental to the public welfare;
 - (iv) the applicant has the financial ability to complete the proposed works; and
 - (v) the application was filed in good faith and not for purposes of speculation or monopoly.
 - (b)
 - (i) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application to appropriate water will interfere with its more beneficial use for irrigation, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, it is the state engineer's duty to withhold approval or rejection of the application until the state engineer has investigated the matter.
 - (ii) If an application does not meet the requirements of this section, it shall be rejected.
- (2)
 - (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.
 - (b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.
 - (c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.
 - (d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:
 - (i) the essential purpose of the original application has not been satisfied;
 - (ii) the need for an extension is not the result of any default or neglect by the applicant; and
 - (iii) the water is still available.
 - (e) No extension shall exceed the time necessary to satisfy the primary purpose of the original application.
 - (f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.
- (3)
 - (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

- (b) The approval of an application shall be revoked in the event of the failure of the applicant to comply with terms of the royalty contract.