

**PROOF FOR A WATER RIGHT APPLICATION**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Patrick Painter**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the proof of a water right application.

**Highlighted Provisions:**

This bill:

- ▶ changes the proof required for a water right appropriation; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**73-3-16**, as last amended by Laws of Utah 1998, Chapter 33

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **73-3-16** is amended to read:

**73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement in lieu of proof of appropriation or change.**

(1) Sixty days before the date set for the proof of appropriation or proof of change to be



28 made, the state engineer shall notify the applicant by mail when proof of completion of the  
29 works and application of the water to a beneficial use [~~will be~~] is due.

30 (2) On or before the date set for completing the proof in accordance with the  
31 application, the applicant shall file proof with the state engineer on [~~forms~~] a form furnished by  
32 the state engineer.

33 (3) Except as provided in [~~Subsection (4)~~] Subsections (4) and (5), the applicant shall  
34 submit the following information:

- 35 (a) a description of the works constructed;
- 36 (b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;
- 37 (c) the method of applying the water to beneficial use; and
- 38 (d) (i) detailed measurements of water put to beneficial use;
- 39 (ii) the date the measurements were made; and
- 40 (iii) the name of the person making the measurements.

41 (4) If the applicant is a public agency holding water for the reasonable future  
42 requirements of the public as provided in Section 73-3-12, the applicant shall submit the  
43 following information:

- 44 (a) a description of the works constructed;
- 45 (b) the method of applying the water to beneficial use;
- 46 (c) the flow of water diverted, measured in second-feet;
- 47 (d) the quantity of water used, measured in acre-feet;
- 48 (e) the quantity of water the applicant is holding for the reasonable future requirements  
49 of the public, measured in acre-feet; and
- 50 (f) the name of the person making the measurements required by Subsections (4)(c)  
51 through (e).

52 [~~(4)(a) On applications~~] (5) (a) An applicant shall file proof, as required by this  
53 Subsection (5), on an application filed for appropriation or permanent change of use of water to  
54 provide a water supply for [~~state projects~~] the following entities:

- 55 (i) a state project constructed pursuant to Title 73, Chapter 10, Board of Water  
56 Resources - Division of Water Resources[;]; or [~~for federal projects~~]
- 57 (ii) a federal project constructed by the United States Bureau of Reclamation for the  
58 use and benefit of;

59 (A) the state~~[, any of its agencies, its];~~

60 (B) a state agency;

61 (C) a political ~~[subdivisions,]~~ subdivision;

62 (D) a public and quasi-municipal ~~[corporations,]~~ corporation; or ~~[water users'~~

63 associations of which the state, its agencies, political subdivisions, or public and

64 quasi-municipal corporations are stockholders, the]

65 (E) a water users' association of which an entity listed in Subsections (5)(a)(ii)(A)  
66 through (D) is a stockholder.

67 (b) The proof shall include:

68 (i) a statement indicating construction of the project works has been completed;

69 (ii) a description of the major features with appropriate maps, profiles, drawings, and  
70 reservoir area-capacity curves;

71 (iii) a description of the point or points of diversion and redirection;

72 (iv) project operation data;

73 (v) a map showing the place of use of water and a statement of the purpose and method  
74 of use;

75 (vi) the project plan for beneficial use of water under the applications and the quantity  
76 of water required; and

77 (vii) a statement indicating what type of measuring devices have been installed.

78 ~~[(b)]~~ (c) The director of the Division of Water Resources shall sign proofs for the state  
79 projects and an authorized official of the Bureau of Reclamation shall sign proofs for the  
80 federal projects specified in Subsection ~~[(4)(a)]~~ (5)(a)(i).

81 ~~[(5)]~~ (6) The proof on all applications shall be sworn to by the applicant or the  
82 applicant's appointed representative and proof engineer.

83 ~~[(6)]~~ (7) (a) Except as provided in Subsection ~~[(6)]~~ (7)(b), when filing proof, the  
84 applicant shall submit maps, profiles, and drawings made by a Utah licensed land surveyor or  
85 Utah licensed professional engineer that show:

86 (i) the location of the completed works;

87 (ii) the nature and extent of the completed works;

88 (iii) the natural stream or source from which and the point where the water is diverted  
89 and, in the case of a nonconsumptive use, the point where the water is returned; and

90 (iv) the place of use.

91 (b) The state engineer may waive the filing of maps, profiles, and drawings if in the  
92 state engineer's opinion the written proof adequately describes the works and the nature and  
93 extent of beneficial use.

94 [~~7~~] (8) The completed proof shall conform to rules and standards established by the  
95 state engineer.

96 [~~8~~] (9) In those areas in which general determination proceedings are pending, or  
97 have been concluded, under Title 73, Chapter 4, Determination of Water Rights, the state  
98 engineer may petition the district court for permission to:

99 (a) waive the requirements of this section and Section 73-3-17; and

100 (b) permit each owner of an application to file a verified statement to the effect that the  
101 applicant has completed the appropriation or change and elects to file a statement of water  
102 users claim in the proposed determination of water rights or any supplement to it in accordance  
103 with Title 73, Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or  
104 proof of change.

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**Legislative Review Note**  
as of 1-30-08 10:11 AM

**Office of Legislative Research and General Counsel**

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**H.B. 225 - Proof for a Water Right Application**

**Fiscal Note**

2008 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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