

**73-3-2 Application for right to use unappropriated public water -- Necessity -- Form -- Contents -- Validation of prior applications by state or United States or officer or agency thereof.**

- (1)
  - (a) In order to acquire the right to use any unappropriated public water in this state, any person who is a citizen of the United States, or who has filed his declaration of intention to become a citizen as required by the naturalization laws, or any association of citizens or declarants, or any corporation, or the state of Utah by the directors of the divisions of travel development, business and economic development, wildlife resources, and state lands and forestry, or the executive director of the Department of Transportation for the use and benefit of the public, or the United States of America shall make an application in a form prescribed by the state engineer before commencing the construction, enlargement, extension, or structural alteration of any ditch, canal, well, tunnel, or other distributing works, or performing similar work tending to acquire such rights or appropriation, or enlargement of an existing right or appropriation.
  - (b) The application shall be upon a form to be furnished by the state engineer and shall set forth:
    - (i) the name and post office address of the person, corporation, or association making the application;
    - (ii) the nature of the proposed use for which the appropriation is intended;
    - (iii) the quantity of water in acre-feet or the flow of water in second-feet to be appropriated;
    - (iv) the time during which it is to be used each year;
    - (v) the name of the stream or other source from which the water is to be diverted;
    - (vi) the place on the stream or source where the water is to be diverted and the nature of the diverting works;
    - (vii) the dimensions, grade, shape, and nature of the proposed diverting channel; and
    - (viii) other facts that clearly define the full purpose of the proposed appropriation.
- (2)
  - (a) In addition to the information required in Subsection (1)(b), if the proposed use is for irrigation, the application shall show:
    - (i) the legal subdivisions of the land proposed to be irrigated, with the total acreage thereof; and
    - (ii) the character of the soil.
  - (b) In addition to the information required in Subsection (1)(b), if the proposed use is for developing power, the application shall show:
    - (i) the number, size, and kind of water wheels to be employed and the head under which each wheel is to be operated;
    - (ii) the amount of power to be produced;
    - (iii) the purposes for which and the places where it is to be used; and
    - (iv) the point where the water is to be returned to the natural stream or source.
  - (c) In addition to the information required in Subsection (1)(b), if the proposed use is for milling or mining, the application shall show:
    - (i) the name of the mill and its location or the name of the mine and the mining district in which it is situated;
    - (ii) its nature; and
    - (iii) the place where the water is to be returned to the natural stream or source.
  - (d)
    - (i) The point of diversion and point of return of the water shall be designated with reference to the United States land survey corners, mineral monuments or permanent federal triangulation or traverse monuments, when either the point of diversion or the point of return is situated within six miles of the corners and monuments.

- (ii) If the point of diversion or point of return is located in unsurveyed territory, the point may be designated with reference to a permanent, prominent natural object.
- (iii) The storage of water by means of a reservoir shall be regarded as a diversion, and the point of diversion in those cases is the point where the longitudinal axis of the dam crosses the center of the stream bed.
- (iv) The point where released storage water is taken from the stream shall be designated as the point of rediversion.
- (v) The lands to be inundated by any reservoir shall be described as nearly as may be, and by government subdivision if upon surveyed land. The height of the dam, the capacity of the reservoir, and the area of the surface when the reservoir is filled shall be given.
- (vi) If the water is to be stored in an underground area or basin, the applicant shall designate, with reference to the nearest United States land survey corner if situated within six miles of it, the point of area of intake, the location of the underground area or basin, and the points of collection.
- (e) Applications for the appropriation of water filed prior to the enactment of this title, by the United States of America, or any officer or agency of it, or the state of Utah, or any officer or agency of it, are validated, subject to any action by the state engineer.

Amended by Chapter 136, 2001 General Session