Chapter 3
Appropriation

73-3-1 Appropriation -- Manner of acquiring water rights.

(1) A person may acquire a right to the use of the unappropriated public waters in this state only as provided for in this title.
(2) The appropriation of public waters in the state shall comply with the requirements of this title.
(3) Except as provided in Subsection (7), a person obtaining, initiating the use of, or providing notice of intent to appropriate a water right shall comply with the requirements of this chapter.
(4) An appropriation may be made only for a useful and beneficial purpose.
(5) Between appropriators, the one first in time is first in rights.
(6) A person may not acquire a right to the use of water either appropriated or unappropriated by adverse use or adverse possession.
(7) Notwithstanding Section 73-3-2, a person may directly capture and store precipitation as provided in Section 73-3-1.5.

Amended by Chapter 296, 2026 General Session

73-3-1.5 Capture and storage of precipitation.

(1) As used in this section, "parcel" means an identifiable contiguous unit of property that is treated as separate for valuation or zoning purposes and includes an improvement on that unit of property.
(2) Notwithstanding Section 73-3-2, a person may:
  (a) directly capture and store precipitation on a parcel owned or leased by the person in accordance with Subsection (3) or (4); and
  (b) place the water captured and stored as provided in Subsection (2)(a) to beneficial use on the parcel on which the water is captured and stored.
(3) After registering for the capture and storage of precipitation in accordance with Subsection (5), a person may collect and store precipitation in a container installed in accordance with the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act, if:
  (a) for a person who uses only one container on a parcel, the total capacity of the container is no more than 2,500 gallons; or
  (b) for a person who uses more than one container on a parcel, the aggregate capacity of the containers is no more than 2,500 gallons.
(4) A person may collect and store precipitation, without registering under Subsection (5), in no more than two covered storage containers if neither covered storage container has a maximum storage capacity of greater than 100 gallons.
(5)
  (a) The state engineer shall provide a website on which a person may register as required by Subsection (3).
  (b) To register, a person shall complete information required by the state engineer including the:
    (i) name and address of the person capturing or storing precipitation;
    (ii) total capacity of all containers storing precipitation; and
    (iii) street address or other suitable description of the location where precipitation is to be captured and stored.

(6) Beneficial use of water under Subsection (2)(b) does not constitute a water right and may not be:
(a) changed under Section 73-3-3;
(b) assigned; or
(c) consolidated with a water right.
(7) A person who beneficially uses water under Subsection (2)(b) shall comply with:
(a) state law; and
(b) local health and safety rules and regulations.

Amended by Chapter 260, 2013 General Session

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

73-3-3 Changes to a water right.
(1) As used in this section:
(a) "Agricultural water optimization project" means a project that:
(i) accomplishes agricultural water optimization as defined in Section 73-10g-203.5; and
(ii) generates saved water.
(b) "Change" means a change to the:
(i) point of diversion;
(ii) place of use;
(iii) period of use;
(iv) nature of use; or
(v) storage of water.
(c) "Fixed time change" means a change for a fixed period of time exceeding one year and not exceeding 10 years, including a fixed time change described in Section 73-3-30.
(d) "Net decrease in depletion" means a net decrease in water consumed that is accomplished by implementing an agricultural water optimization project under a perfected water right.
(e) "Net reduction in diversion" means a net decrease in water diverted under a perfected water right that is accomplished by implementing an agricultural water optimization project.

(f) "Permanent change" means a change, for an indefinite period of time, including a permanent change described in Section 73-3-30.

(g) "Person entitled to the use of water" means:

(i) the holder of an approved but unperfected application to appropriate water;

(ii) the record owner of a perfected water right;

(iii) a person who has written authorization from a person described in Subsection (1)(g)(i) or (ii) to file a change application on that person's behalf; or

(iv) a shareholder in a water company who is authorized to file a change application in accordance with Section 73-3-3.5.

(h)

(i) "Quantity impairment" means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

(A) diminishing the quantity of water in the source of supply for the existing right;

(B) a change in the timing of availability of water from the source of supply for the existing right; or

(C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) "Quantity impairment" does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

(i) "Saved water" means:

(i) the net decrease in depletion or net reduction in diversion resulting from an agricultural water optimization project as quantified by the state engineer in a final order approving a change application filed under this section:

(A) on a perfected water right;

(B) issued before the commencement of physical construction of the agricultural water optimization project; and

(C) describing the agricultural water optimization project and, as applicable, the net decrease in depletion and net reduction in diversion; or

(ii) as applicable, the net decrease in depletion and net reduction in diversion recognized in a certificate issued by the state engineer according to Section 73-3-17 after an applicant has filed proof of appropriation on an approved change application described in Subsection (3)(d).

(j) "Split season change" means a change when the holder of a perfected right grants to a water user the right to make sequential use of a portion of the water right.

(k) "Temporary change" means a change for a period of time, not exceeding one year, including a temporary change described in Section 73-3-30.

(2)

(a) A person who proposes to file a change application may request consultation with the state engineer, or the state engineer's designee, before filing the application to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the state engineer.

(c) The consultation described in Subsection (2)(a) may occur in the state engineer's regional office for the region where the proposed change would occur.

(3)
(a) A person entitled to the use of water may make a change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:
(i) the person makes the change in accordance with this section;
(ii) except as provided by Section 73-3-30, the change does not impair an existing right without just compensation or adequate mitigation; and
(iii) the state engineer approves the change application, consistent with Section 73-3-8.
(b) A change application on a federal reclamation project water right shall be signed by:
(i) the local water users organization that is contractually responsible for:
(A) the operation and maintenance of the project; or
(B) the repayment of project costs; and
(ii) the record owner of the water right.
(c) A change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:
(i) the local public water supplier that is responsible for the operation and maintenance of the public water supply system; and
(ii) the record owner of the water right.
(d) A person entitled to the use of water may file a change application on a perfected water right to request the state engineer to:
(i) quantify saved water; or
(ii) subject to Section 73-3-8, allow beneficial use of saved water separate from the underlying water right that serves as the basis of the saved water.
(4)
(a) Before making a change, a person entitled to the use of water shall submit a change application upon forms furnished by the state engineer.
(b) The application described in Subsection (4)(a) shall include:
(i) the applicant's name;
(ii) the water right description, including the water right number;
(iii) the water quantity;
(iv) the stream or water source;
(v) if applicable, the point on the stream or water source where the water is diverted;
(vi) if applicable, the point to which it is proposed to change the diversion of the water;
(vii) the place, nature, period, and extent of the currently approved use;
(viii) the place, nature, period, and extent of the proposed use;
(ix) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;
(x) any proposed change to the storage of water;
(xi) if the change application proposes to quantify saved water, the anticipated quantity of saved water; and
(xii) any other information that the state engineer requires.
(c) A shareholder in a water company who seeks to make a change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.
(5) In a proceeding before the state engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:
(a) that the change will not cause a specific existing right to experience quantity impairment;

(b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c); and
(c) that, if the change application proposes to quantify saved water:
(i) the net decrease in depletion or net reduction in diversion can be reliably sustained over the life of the agricultural water optimization project; and
(ii) an agricultural water optimization project proposing a net reduction in diversion does not increase depletion allowed by the underlying perfected water right that serves as the basis of the saved water.
(6) A change of an approved application to appropriate water does not:
(a) affect the priority of the original application to appropriate water; or
(b) extend the time period within which the construction of work is to begin or be completed.
(7) Any person who makes a change without first filing and obtaining approval of a change application providing for the change:
(a)
(i) obtains no right by the change;
(ii) is guilty of an offense punishable under Section 73-2-27 if the change is made knowingly or intentionally; and
(iii) shall comply with the change application process; and
(b) obtains no right to saved water.
(8)
(a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.
(b) A replacement well must be drilled in accordance with the requirements of Section 73-3-28.

Amended by Chapter 233, 2024 General Session

73-3-3.5 Application for a change of point of diversion, place of use, or purpose of use of water in a water company made by a shareholder.
(1) As used in this section:
(a) "Shareholder" means the owner of a share of stock, or other evidence of stock ownership, that entitles the person to a proportionate share of water in a water company.
(b) "Water company" means, except as described in Subsection (1)(c), any company, operating for profit or not for profit, where a shareholder has the right to receive a proportionate share, based on that shareholder's ownership interest, of water delivered by the company.
(c) "Water company" does not include a public water supplier, as defined in Section 73-1-4.
(2)
(a) A shareholder who seeks to file a change application under Section 73-3-3 to make a change to some or all of the water rights represented by the shareholder's shares in a water company shall:
(i) prepare a proposed change application on forms furnished by the state engineer; and
(ii) provide the proposed change application to the water company by personal delivery with a signed receipt, certified mail, or electronic mail with confirmation of receipt.
(b) The water company and the shareholder shall cooperate in supplying information relevant to preparation or correction of the shareholder's change application.
(c) In addition to the information required under Section 73-3-3, the proposed change application shall include:
(i) the certificate number of the stock affected by the change;

(ii) a description of the land proposed to be retired from irrigation in accordance with Section 73-3-3, if the proposed change in place or nature of use of the water involves a situation where the water was previously used for irrigation;

(iii) an agreement by the shareholder to continue to pay all applicable corporate assessments on the share affected by the change; and

(iv) any other information that the water company may reasonably need to evaluate the proposed change application.

(3)

(a) The water company shall respond to the proposed change application described in Subsection (2) within 120 days after the day on which the water company receives the proposed change application.

(b) The water company's response to the proposed change application shall be in writing and shall:

(i) consent to the proposed change;

(ii) consent to the proposed change, subject to certain conditions described by the water company; or

(iii) decline to consent to the proposed change, describing the reasons for declining to consent.

(c) If the water company fails to timely respond, as described in Subsection (3)(a), the failure to respond shall be considered the water company's consent to the proposed change application and the shareholder may file the change application with the state engineer.

(4)

(a) In reviewing a shareholder's proposed change application, a water company may consider:

(i) whether an increased cost to the water company or the water company's shareholders results from the proposed change;

(ii) whether the proposed change will interfere with the water company's ability to manage and distribute water for the benefit of all shareholders;

(iii) whether the proposed change represents more water than the shareholder's proportionate share of the water company's right;

(iv) whether the proposed change would create preferential access to use of particular company water rights to the detriment of other shareholders;

(v) whether the proposed change will impair the quantity or quality of water delivered to other shareholders under the existing water rights of the water company, including rights to carrier water;

(vi) whether the proposed change violates a statute, ordinance, regulation, or order of a court or government agency;

(vii) if applicable, whether the shareholder has or can arrange for the beneficial use of water to be retired from irrigation within the water company's service area under the proposed change; and

(viii) the cumulative effects that the approval of the change application may have on other shareholders or water company operations.

(b) The water company may not withhold consent if any potential damage, liability, or impairment to the water company, or the water company's shareholders, can be reasonably mitigated without cost to the water company.

(c) The water company may require the shareholder to pay all reasonable and necessary costs associated with the change application, but may not impose unreasonable exactions.

(5)

(a) If the water company declines to consent to the proposed change application, stating its reasons, the shareholder may file an action in district court, seeking court review of the

reasonableness of the conditions imposed for giving consent or the reasons stated for declining consent and a final order allowing the shareholder to file the proposed change application with the state engineer.

(b) If the water company consents to the proposed change application subject to conditions to which the shareholder does not agree, the shareholder may file the change application with the state engineer as provided in Subsection (6), without waiving the shareholder's right to contest conditions set by the water company under Subsection (3)(b)(ii).

(c) During or after the completion of the proceeding before the state engineer commenced under Subsection (6), the shareholder may file an action in district court seeking court review of the reasonableness of the conditions imposed by the water company for giving consent.

(d) In an action brought under Subsection (5)(a), (b), or (c), the court:

(i) shall refer the parties to mediation under Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, unless one or both parties decline mediation; and

(ii) may award costs and reasonable attorney fees to the prevailing party if mediation does not occur because the other party declined to participate in mediation.

(6) If the water company consents to the proposed change, the water company fails to respond as required by Subsection (3)(a), the court has entered an order described in Subsection (5)(a), or the water company consents to the proposed change subject to conditions to which the shareholder does not agree, as described in Subsection (5)(b), the shareholder may commence an administrative proceeding by filing the change application with the state engineer in accordance with Section 73-3-3 and this section.

(7) The shareholder shall include as part of the change application filed with the state engineer under Subsection (5)(b) or (6):

(a) the water company's response to the shareholder's proposed change application;

(b) if applicable, an affidavit signed by the shareholder documenting the water company's failure to respond in the time period described in Subsection (3)(a); or

(c) if applicable, the court order described in Subsection (5)(a).

(8)

(a) The state engineer shall evaluate a shareholder's change application in the same manner used to evaluate a change application submitted under Section 73-3-3, using the criteria described in Section 73-3-8.

(b) Nothing in this section limits the authority of the state engineer in evaluating and processing a change application, including the authority to require or allow a shareholder or water company to submit additional relevant information, if the state engineer finds an absence of prejudice and allows adequate time and opportunity for the other party to respond.

(9) If the state engineer approves a shareholder's change application, the state engineer may, for shares included in the approval, require that the shareholder requesting the change be current on all water company assessments and continue to pay all reasonably applicable future assessments, with credit given to the shareholder for any cost savings to the company resulting from the change.

(10) By mutual agreement only, and when the shares will rely upon a different diversion and delivery system, the water company and the shareholder may negotiate a buyout from the water company that may include a pro rata share of the water company's existing indebtedness assignable to the shares.

(11) After an application has been approved by the state engineer, the shareholder may file requests for extensions of time to submit proof of beneficial use under the change application without further involvement of the water company.

(12) If, after a proposed change has been approved and gone into effect, a shareholder fails to substantially comply with a condition described in Subsection (9), or any condition reasonably imposed by the water company and agreed to by the shareholder, and neglects to remedy the failure after written notice from the water company that allows the shareholder a reasonable opportunity to remedy the failure, no less than 90 days after the day on which the water company gives notice, the water company may petition the state engineer to order a reversal of the change application approval.

(13)

(a) The shareholder requesting the change shall have a cause of action, including an award of actual damages incurred, against the water company if the water company:

(i) unreasonably withholds approval of a requested change;

(ii) imposes unreasonable conditions in the water company's approval; or

(iii) withdraws approval of a change application in a manner other than as provided in Subsection (12).

(b) The court may award costs and reasonable attorney fees:

(i) to the shareholder if the court finds that the water company acted in bad faith when the water company declined to consent to the proposed change or conditioned the water company's consent on excessive exactions or unreasonable conditions; or

(ii) to the water company if the court finds that the shareholder acted in bad faith in refusing to accept conditions reasonably necessary to protect other shareholders if the shareholder's change application is approved.

Amended by Chapter 13, 2024 General Session

73-3-4 "Received," "filed" defined.

Whenever in this title the word "received" is used with reference to any paper deposited in the office of the state engineer, it shall be deemed to mean the date when such paper was first deposited in the state engineer's office; and whenever the term "filed" is used, it shall be deemed to mean the date when such paper was acceptably completed in form and substance and filed in said office.

No Change Since 1953

73-3-5 Action by engineer on applications.

(1) On receipt of an application containing the information required by Section 73-3-2, and payment of the filing fee, the state engineer shall endorse the application with the date of its receipt to make a record of the receipt for that purpose.

(2) The state engineer shall examine the application and determine whether any corrections, amendments or changes are required for clarity and if so, see that such changes are made before further processing. The state engineer may not construe an application for a split season change or other potentially complicated change as incomplete or unacceptable if the application satisfies the filing requirements under Section 73-3-3 and payment of the respective filing fee is made.

(3) An application that complies with this chapter and with the regulations of the state engineer shall be filed and recorded.

(4) The state engineer may issue a temporary receipt to drill a well at any time after the filing of an application to appropriate water from the well, as provided by this section if the fees be advanced and if in the state engineer's judgment there is unappropriated water available in

the proposed source and there is no likelihood of impairment of existing rights, except that the issuance of a temporary receipt does not dispense with the publishing of notice and the final approval or rejection of the application by the state engineer, as provided by this chapter.

(5) The state engineer may send the necessary notices and address correspondence relating to an application to the owner thereof as shown by the state engineer's records, or to the owner's attorney in fact provided a written power of attorney is filed in the state engineer's office.

Amended by Chapter 421, 2020 General Session

73-3-5.5 Temporary applications to appropriate water -- Approval by engineer -- Expiration -- Proof of appropriation not required.

(1) The state engineer may issue temporary applications to appropriate water for beneficial purposes.

(2) The provisions of this chapter governing regular applications to appropriate water shall apply to temporary applications with the following exceptions:

(a)

(i) The state engineer shall undertake a thorough investigation of the proposed appropriation, and if the temporary application complies with the provisions of Section 73-3-8, may make an order approving the application.

(ii) If the state engineer finds that the appropriation sought might impair other rights, before approving the application, the state engineer shall give notice of the application to all persons whose rights may be affected by the temporary appropriations.

(b) The state engineer may issue a temporary application for a period of time not exceeding one year.

(c)

(i) The state engineer, in the approval of a temporary application, may make approval subject to whatever conditions and provisions the state engineer considers necessary to fully protect prior existing rights.

(ii) If the state engineer determines that it is necessary to have a water commissioner distribute the water under a temporary application for the protection of other vested rights, the state engineer may assess the distribution costs against the holder of the temporary application.

(d)

(i) A temporary application does not vest in its holder a permanent vested right to the use of water.

(ii) A temporary application automatically expires and is cancelled according to its terms.

(e) Proof of appropriation otherwise required under this chapter is not required for temporary applications.

Amended by Chapter 302, 2025 General Session

73-3-5.6 Applications to appropriate or permanently change a small amount of water -- Proof of appropriation or change.

(1) As used in this section:

(a) "Application" means an application to:

(i) appropriate a small amount of water; or

(ii) permanently change a small amount of water.

(b) "Livestock water right" means a right for:

(i) livestock to consume water:

(A) directly from the water source; or
(B) from an impoundment into which the water is diverted; and
(ii) associated uses of water related to the raising and care of livestock.
(c) "Proof" means proof of:
(i) appropriation; or
(ii) permanent change.
(d) "Small amount of water" means the amount of water necessary to meet the requirements of:
(i) one residence;
(ii) 1/4 acre of irrigable land; and
(iii) a livestock watering right for:
(A) 10 cattle; or
(B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than cattle.
(2) The state engineer may approve an application if:
(a) the state engineer undertakes a thorough investigation of the application;
(b) notice is provided in accordance with Subsection (3);
(c) the application complies with the state engineer's regional policies and restrictions and Section 73-3-3 or 73-3-8, as applicable; and
(d) the application does not conflict with a political subdivision's ordinance:
(i) for planning, zoning, or subdivision regulation; or
(ii) under Section 10-8-15.
(3)
(a) Advertising of an application specified in Subsection (2) is at the discretion of the state engineer.
(b) If the state engineer finds that the uses proposed by the application may impair other rights, before approving the application, the state engineer shall give notice of the application according to Section 73-3-6.
(4) An applicant receiving approval under this section is responsible for the time limit for construction and submitting proof as required by Subsection (6).
(5) Sixty days before the end of the time limit for construction, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof is due.
(6)
(a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate under Section 73-3-17 if, as proof, the applicant files an affidavit:
(i) on a form provided by the state engineer;
(ii) that specifies the amount of:
(A) irrigated land; and
(B) livestock watered; and
(iii) that declares the residence is constructed and occupied.
(b) The form provided by the state engineer under Subsection (6)(a) may require the information the state engineer determines is necessary to maintain accurate records regarding the point of diversion and place of use.
(7) For a proof filed under Subsection (6) that does not conform to the underlying approved application, the state engineer may issue a certificate under Section 73-3-17 if the discrepancy between the proof and the underlying approved application does not impair existing rights and:
(a) the point of diversion represented in the proof is:
(i) located within 660 feet of the corresponding point of diversion described in the underlying approved application; and
(ii) located on the same parcel as described in the underlying approved application;

(b) the place of use represented in the proof is located in a quarter-quarter section or lot that is adjacent to the place of use in the underlying approved application; or
(c) the purpose of use represented in the proof is adjusted without exceeding the amount of water defined under Subsection (1)(d).
(8) If an applicant does not file the proof required by Subsection (6) by the day on which the time limit for construction ends, the application lapses under Section 73-3-18.
(9)
(a) Except as provided in Subsections (10) and (11), an applicant whose application lapses may file a request with the state engineer to reinstate the application, if the applicant demonstrates that the applicant or the applicant's predecessor in interest:
(i) constructed and occupied a residence within the time limit for construction; and
(ii) beneficially uses the water.
(b) Except as provided in Subsection (11), if an applicant meets the requirements of Subsection (9)(a) and submits an affidavit as provided by Subsection (6), the state engineer shall issue a certificate for the beneficial uses the applicant attests to in an affidavit described in Subsection (6).
(10) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending or concluded, an applicant whose application lapses may not file a request for reinstatement with the state engineer if:
(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3; and
(b) the applicant failed to timely submit a statement of claim as described in Subsection (11)(c)(ii).
(11) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending, the state engineer shall allow a reinstatement request under Subsection (9)(a) and, instead of issuing a certificate, evaluate the reinstatement request and statement of claim as part of the general adjudication for the area, if:
(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3;
(b) the applicant files the request for reinstatement no more than 90 days after the day on which the state engineer issues the notice of the time to file statements of claim in accordance with Section 73-4-3; and
(c) the applicant files:
(i) an affidavit described in Subsection (6); and
(ii) a timely statement of claim under Section 73-4-5.
(12) If an applicant fulfills the requirements in Subsection (11), the state engineer may issue a certificate before evaluating the claim in the general adjudication.
(13) The priority date for an application reinstated under this section is the day on which the applicant files the request for reinstatement of the application.

Amended by Chapter 85, 2022 General Session

73-3-6 Publication of notice of application -- Corrections or amendments of applications -- Confirmation -- Withdrawal of application.
(1)

(a) When an application is filed in compliance with this title, the state engineer shall publish a notice of the application:
(i) once a week for a period of two successive weeks in a newspaper of general circulation in the county in which the source of supply is located, and where the water is to be used; and
(ii) in accordance within Section 45-1-101 for two weeks.
(b) The notice shall:
(i) state that an application has been made; and
(ii) specify where the interested party may obtain additional information relating to the application.
(c) Clerical errors, ambiguities, and mistakes that do not prejudice the rights of others may be corrected by order of the state engineer either before or after the publication of notice.
(d) The state engineer may confirm publication of a notice of application under this Subsection (1) through electronic means.
(2) After publication of notice to water users, the state engineer may authorize amendments or corrections that involve a change of point of diversion, place, or purpose of use of water, only after republication of notice to water users.
(3)
(a) An applicant or an applicant's successor in interest may withdraw an unperfected application by notifying, in writing, the state engineer of the withdrawal.
(b) Upon receipt of the notice described in Subsection (3)(a), the state engineer shall promptly update state engineer records to reflect that the application has been withdrawn and is of no further force or effect.
(c) An individual who withdraws an unperfected application under Subsection (3)(a) is not entitled to a refund of fees.

Amended by Chapter 31, 2024 General Session

73-3-7 Protests.
(1) Subject to Subsection (2), a person interested may file a protest with the state engineer:
(a) within 20 days after the notice is published, if the adjudicative proceeding is informal; and
(b) within 30 days after the notice is published, if the adjudicative proceeding is formal.
(2) The state engineer shall:
(a) consider a protest only to the extent the protest addresses a basis for which the state engineer may approve or reject the application; and
(b) approve or reject the application.

Amended by Chapter 296, 2026 General Session

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 -- Request for agency action.
(1)
(a) The state engineer shall approve an application if there is reason to believe that:
(i) for an application to appropriate, there is unappropriated water in the proposed source;
(ii) the proposed use will not impair existing rights;
(iii) the proposed plan:
(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;
(iv) the applicant has the financial ability to complete the proposed works;
(v) the application was filed in good faith and not for purposes of speculation or monopoly; and
(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.
(b) If an application does not meet the requirements of this section, the state engineer shall reject the application.
(2)
(a) The state engineer may approve an application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may the state engineer grant an application 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 a 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) An extension under Subsection (2)(d) may not exceed the time necessary to satisfy the primary purpose of the original application.
(f) An applicant shall file a request for extension of a fixed time period in writing in the office of the state engineer on or before the expiration date of the application.
(3)
(a) Before the approval of an application to divert water from a navigable lake or stream of the state that contemplates the recovery of salts and other minerals or elements, as defined in Section 65A-17-101, from the navigable lake or stream by precipitation or otherwise, the applicant shall file with the state engineer a copy of:
(i) a contract for the payment of royalties to the state; and
(ii) any mineral lease.
(b) Upon written notice to the state engineer of termination or noncompliance of a royalty contract or mineral lease described in Subsection (3)(a), the state engineer shall:
(i) reverse the approval of an application; or
(ii) indicate on the water right in the records of the state engineer the default if the written notice states that the royalty contract or mineral lease has a reversionary provision related to the water right.
(4)
(a) The state engineer shall investigate a temporary change application.
(b) The state engineer is not required to publish notice of a temporary change application under Section 73-3-6.
(c) The state engineer shall:
(i) approve the temporary change if the state engineer finds there is reason to believe that the temporary change does not impair an existing right; and

(ii) reject the temporary change if the state engineer finds there is reason to believe the temporary change would impair an existing right.

(d) If the state engineer rejects a temporary change application, the applicant may file a permanent or fixed time change application.

(5)

(a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application, including to:

(i) prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed; and

(ii) ensure that the recognition and subsequent use of saved water, as defined in Section 73-3-3:

(A) is quantified, reported, and verified;

(B) does not lead to an enlargement of the depletion or diversion amounts in the underlying water right that serves as the basis of the saved water, or an increase in the authorized number of irrigated acres unless depletion is accounted for and regulated in the condition;

(C) is limited to the net decrease in depletion and net reduction in diversion of the underlying water right that serves as the basis of the saved water;

(D) is limited to the volume of water that is sustained over time from the net decrease in depletion or net reduction in diversion of the underlying water right that serves as the basis of the saved water;

(E) does not violate an existing water agreement; and

(F) when based solely on a net reduction in diversion, the subsequent use is limited to nonconsumptive beneficial uses and does not increase the depletion allowed by the underlying water right that serves as the basis of the saved water or otherwise cause quantity impairment to an existing water right when the saved water is beneficially used separate from the underlying water right.

(d) Except for an application proposing to quantify saved water, a condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6)

(a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c)
(i) There is a rebuttable presumption of quantity impairment, as defined in Section 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application is not:
(A) diverted from the approved point of diversion; or
(B) beneficially used at the approved place of use.
(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:
(A) Subsection 73-1-4(2)(e);
(B) an approved nonuse application under Subsection 73-1-4(2)(b);
(C) Subsection 73-3-30(7); or
(D) the passage of time under Subsection 73-1-4(2)(c)(i).
(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:
(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or
(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.
(e) The written notice described in Subsection (6)(d)(ii) shall:
(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and
(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.
(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).
(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.
(h) If a change applicant, the protestants, and the persons identified by the state engineer under Subsection (6)(d)(i) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

(7)
(a) To determine whether a proposed plan would not prove detrimental to the public welfare under Subsection (1)(a)(iii), the state engineer may only consider:
(i) the effect of the proposed plan on:
(A) the beneficial use of water; or
(B) the quantity, quality, or availability of water; and
(ii) other factors as specifically directed by statute.
(b) The state engineer may not consider or rely on detriment to the public welfare under Subsection (1)(a)(iii) as a basis for the rejection of an application if:
(i) the prevention, regulation, or mitigation of the detrimental effect is reserved to, reasonably within the scope of authority of, or better suited to be addressed by another regulatory agency; or
(ii) the factors supporting a finding of a detriment to the public welfare:
(A) are not directly associated with the interests described in Subsection (7)(a); or
(B) will have a negligible effect on the interests described in Subsection (7)(a).

Amended by Chapter 296, 2026 General Session

73-3-10 Approval or rejection of application.

(1) When the state engineer approves or rejects an application, the state engineer shall record the approval decision or rejection decision in the state engineer's office.

(2) On the same day on which the state engineer makes an approval decision or rejection decision described in Subsection (1), the state engineer shall mail, or send electronically if receipt is verifiable, the decision to the applicant.

(3) If an application is approved, the applicant may, upon receipt of the approval decision:

(a) proceed with the construction of the necessary works;

(b) take any steps required to apply the water to the use described in the application; and

(c) perfect the proposed application.

(4) If the application is rejected, the applicant may not take steps toward the prosecution of:

(a) the work proposed in the application; or

(b) the proposed diversion and use of the public water in the application.

(5) In a decision approving an application, other than an application for a fixed time period or a dedicated water application, the state engineer shall state the time within which:

(a) the construction work shall be completed; and

(b) the water shall be applied to beneficial use.

Amended by Chapter 313, 2026 General Session

73-3-11 Statement of financial ability of applicants.

Before either approving or rejecting an application the state engineer may require such additional information as will enable the state engineer properly to guard the public interests, and may require a statement of the following facts: In case of an incorporated company, the state engineer may require the submission of the articles of incorporation, the names and places of residence of its directors and officers, and the amount of its authorized and its paid-up capital. If the applicant is not a corporation, the state engineer may require a showing as to the names of the persons proposing to make the appropriation and a showing of facts necessary to enable the state engineer to determine whether or not they are qualified appropriators and have the financial ability to carry out the proposed work, and whether or not the application has been made in good faith.

Amended by Chapter 365, 2024 General Session

73-3-12 Time limit on construction and application to beneficial use -- Extensions -- Procedures and criteria.

(1) As used in this section:

(a) "Public water supplier" is as defined in Section 73-1-4.

(b) "Wholesale electrical cooperative" is as defined in Section 54-2-1.

(2)

(a) Within the time set by the state engineer under Subsection 73-3-10(5), an applicant shall:

(i) construct works, if necessary;

(ii) apply the water to beneficial use; and

(iii) file proof with the state engineer in accordance with Section 73-3-16.

(b) Except as provided by Subsection (4), the state engineer shall extend the time in which an applicant shall comply with Subsection (2)(a) if:

(i) the date set by the state engineer is not after 50 years from the day on which the application is approved; and

(ii) the applicant shows:
(A) reasonable and due diligence in completing the appropriation; or
(B) a reasonable cause for delay in completing the appropriation.
(c) An applicant shall file a request for an extension of time with the state engineer on or before the date set for filing proof.
(d) The state engineer may grant an extension of time authorized by Subsection (2)(b) if the state engineer sets a date:
(i) no later than 14 years from the day on which the application is approved if the applicant meets the requirements of Subsection (2)(b); and
(ii) after 14 years from the day on which the application is approved if:
(A) the applicant meets the requirements of Subsection (2)(b); and
(B) the state engineer publishes notice as provided in Subsection (2)(e).
(e)
(i) The state engineer shall publish a notice of the request for an extension of time:
(A) once a week for two successive weeks, in a newspaper of general circulation, in the county:
(I) in which the water source is located; and
(II) where the water will be used; and
(B) in accordance with Section 45-1-101 for two weeks.
(ii) The notice shall:
(A) state that a request for an extension of time has been made; and
(B) specify where an interested party may obtain additional information relating to the request.
(f) A person who owns a water right or holds an application from the water source referred to in Subsection (2)(e) may file a protest with the state engineer:
(i) within 20 days after the notice is published, if the adjudicative proceeding is informal; and
(ii) within 30 days after the notice is published, if the adjudicative proceeding is formal.
(g) The approved extension of time is effective so long as the applicant continues to exercise reasonable and due diligence in completing the appropriation.
(h) The state engineer shall consider the holding of an approved application by a public water supplier or a wholesale electrical cooperative to meet the reasonable future water or electricity requirements of the public to be reasonable and due diligence in completing the appropriation for the purposes of this section for 50 years from the date on which the application is approved.
(i) If the state engineer finds unreasonable delay or lack of reasonable and due diligence in completing the appropriation, the state engineer may:
(i) deny the extension of time; or
(ii) grant the request in part or upon conditions, including a reduction of the priority of all or part of the application.
(3) Except as provided by Subsection (4), an application upon which proof has not been filed shall lapse and have no further force or effect after 50 years from the date on which the application is approved.
(4)
(a) If the works are constructed with which to make beneficial use of the water applied for, the state engineer may, upon showing of that fact, extend the time in which to file proof by setting a date after 50 years from the day on which the application is approved.
(b)

(i) The state engineer may extend the time in which the applicant shall comply with Subsection (2)(a) by setting a date after 50 years from the day on which the application is approved if the applicant:
(A) is a public water supplier or a wholesale electrical cooperative; and
(B) provides information that shows the water applied for in the application is needed to meet the reasonable future requirements of the public.
(ii) The information provided by a public water supplier shall be in accordance with the criteria listed in Subsection 73-1-4(2)(f).
(iii) A wholesale electrical cooperative shall provide the information described in Subsection (4)(b)(i)(B) in a report that forecasts:
(A) the need for the water to produce power; and
(B) the power output of the project for the wholesale electrical cooperative within the next 40 years.
(c) The state engineer shall extend the time in which to file proof by setting a reasonable date after 50 years from the day on which the application is approved if the applicant:
(i) meets the requirements in Subsection (4)(b); and
(ii) has:
(A) constructed works to apply the water to beneficial use; or
(B) made substantial expenditures to construct the works.

Amended by Chapter 221, 2013 General Session

73-3-13 Protests -- Procedure.

(1) Any other applicant, or any user of water from any river system or water source may file a request for agency action with the state engineer alleging that such work is not being diligently prosecuted to completion.
(2) Upon receipt of the request for agency action, the state engineer shall give the applicant notice and hold an adjudicative proceeding.
(3) If diligence is not shown by the applicant, the state engineer may declare the application and all rights under it forfeited.

Amended by Chapter 161, 1987 General Session

73-3-14 Judicial review of state engineer order.

(1)
(a) A person aggrieved by an order of the state engineer may obtain judicial review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, and this section.
(b) A person is aggrieved by an order of the state engineer approving or rejecting an application under Section 73-3-8 only if the person has suffered or will suffer a particularized injury from an action taken by the state engineer in accordance with Section 73-3-8.
(c) Venue for judicial review of an informal adjudicative proceeding is in the county in which the water source or a portion of the water source is located.
(2) A person who files a petition of judicial review shall join the state engineer as a respondent in a petition to review the state engineer's decision, but a court may not award a judgment for costs or expenses of the litigation against the state engineer.
(3) A person who files a petition for judicial review as authorized in this section shall:
(a) name the state engineer as a respondent; and

(b) provide written notice in accordance with Subsection (5) to each person who filed a protest in accordance with Section 73-3-7 of:
(i) the filing of the petition for judicial review; and
(ii) the opportunity to intervene in accordance with Utah Rules of Civil Procedure, Rule 24.
(4) In addition to complying with Subsection (3), a protestant in the adjudicative proceeding who files a petition for judicial review shall also name as a respondent the person:
(a) who requested the adjudicative proceeding; or
(b) against whom the state engineer brought the adjudicative proceeding.
(5) A written notice required by this section shall:
(a) be mailed:
(i) within the time provided for by Utah Rules of Civil Procedure, Rule 4(b); and
(ii) to the address on record with the state engineer's office at the time the order is issued; and
(b) include:
(i) a copy of the petition; and
(ii) the address of the court in which the petition is pending.
(6) If a person who files a petition for judicial review fails to provide notice as required by this section, the court shall dismiss the petition without prejudice upon:
(a) the motion of a party;
(b) the special appearance of a person who:
(i) participated in the adjudicative proceeding; and
(ii) is not a party; or
(c) the court's own motion.
(7) A person who files a petition for judicial review is not required to:
(a) notwithstanding Subsection 63G-4-401(3)(b), name a respondent that is not required by this section; and
(b) notwithstanding Subsection 63G-4-402(2)(a)(iv), identify all parties to the adjudicative proceeding.

Amended by Chapter 296, 2026 General Session

73-3-15 Dismissal of action for review of informal adjudicative proceedings.
(1) An action to review a decision of the state engineer from an informal adjudicative proceeding may be dismissed upon the application of any of the parties upon the grounds provided in Utah Rules of Civil Procedure, Rule 41 for:
(a) the dismissal of actions generally; and
(b) failure to prosecute the action with diligence.
(2) For the purpose of this section, failure to prosecute a suit to trial within two years after it is filed gives rise to a rebuttable presumption of a lack of diligence.
(3) In evaluating the rebuttable presumption, the court shall consider the totality of the circumstances.

Amended by Chapter 248, 2009 General Session

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 made, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is

verifiable, when proof of completion of the works and application of the water to a beneficial use is due.

(2)

(a) On or before the date set for completing the proof in accordance with the approved application, the applicant shall file proof with the state engineer on forms furnished by the state engineer.

(b) The filing of a proof in accordance with this section is a request for agency action under Title 63G, Chapter 4, Administrative Procedures Act, only between the applicant and the state engineer.

(3) Except as provided in Subsection (4), the applicant shall submit the following information:

(a) a description of the works constructed;

(b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;

(c) the method of:

(i) applying the water to beneficial use; or

(ii) verifying a net decrease in depletion or net reduction in diversion in accordance with an application to quantify saved water, as defined in Section 73-3-3; and

(d)

(i) detailed measurements:

(A) of water put to beneficial use; and

(B) if applicable, demonstrating the quantity of saved water, as defined in Section 73-3-3;

(ii) the date the measurements were made; and

(iii) the name of the person making the measurements.

(4)

(a)

(i) On applications filed for appropriation or permanent change of use of water to provide a water supply for state projects constructed in accordance with Chapter 10, Board of Water Resources - Division of Water Resources, or for federal projects constructed by the United States Bureau of Reclamation for the use and benefit of the state, any of the state's agencies, the state's political subdivisions, public and quasi-municipal corporations, or water users' associations of which the state, the state's agencies, the state's political subdivisions, or public and quasi-municipal corporations are stockholders, the proof shall include:

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

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

(C) a description of the point or points of diversion and rediversion;

(D) project operation data;

(E) a map showing the place of use of water and a statement of the purpose and method of use;

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

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

(ii) The director of the Division of Water Resources shall sign proofs for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for the federal projects specified in Subsection (4)(a)(i).

(b) Proof on an application for appropriation or permanent change for a surface storage facility in excess of 1,000 acre-feet constructed by a public water supplier to provide a water supply for the reasonable requirements of the public shall include:

(i) a description of the completed water storage facility;

(ii) a description of the major project features and appropriate maps, profiles, drawings, and reservoir area-capacity curves as required by the state engineer;
(iii) the quantity of water stored in acre-feet;
(iv) a description of the water distribution facility for the delivery of the water; and
(v) the project plan for beneficial use of water including any existing contracts for water delivery.
(5) The proof on an application shall be sworn to by the applicant or the applicant's appointed representative.
(6)
(a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall submit a map, profile, or drawing made by a Utah licensed land surveyor or Utah licensed professional engineer that shows:
(i) the location of the completed works;
(ii) the nature and extent of the completed works;
(iii) the natural stream or source from which and the point where the water is diverted and, in the case of a nonconsumptive use, the point where the water is returned; and
(iv) the place of use.
(b) The state engineer may waive the filing of a map, profile, or drawing if in the state engineer's opinion the written proof adequately describes the works and the nature and extent of beneficial use.
(7) In those areas in which general determination proceedings are pending, or have been concluded, under Chapter 4, Determination of Water Rights, the state engineer may petition the court with jurisdiction for permission to:
(a) waive the requirements of this section and Section 73-3-17; and
(b) permit each owner of an application to file a verified statement to the effect that the applicant has completed the appropriation or change and elects to file a statement of water users claim in the proposed determination of water rights or any supplement to the determination of water rights in accordance with Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of change.
(8) This section does not apply to an application for a fixed time, a temporary change application, or dedicated water application as defined in Section 73-3-30.3.

Amended by Chapter 313, 2026 General Session

73-3-17 Certificate of appropriation -- Evidence.
(1) Upon the satisfaction of the state engineer that an appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed time change authorized by Section 73-3-30 has been perfected in accordance with the application, and that the water appropriated or affected by the change has been put to a beneficial use, as required by Section 73-3-16 or 73-3-30, or demonstrated to be saved water, as defined in Section 73-3-3, the state engineer shall issue a certificate, in duplicate, setting forth:
(a) the name and post-office address of the person by whom the water is used;
(b) the quantity of water in acre-feet or the flow in second-feet appropriated and, if applicable, the quantity of saved water, as defined in Section 73-3-3;
(c) the purpose for which the water is used;
(d) the time during which the water is to be used each year;
(e) the name of the stream or water source:
(i) from which the water is diverted; or
(ii) within which an instream flow is maintained;

(f) the date of the appropriation or change; and
(g) other information that defines the extent and conditions of actual application of the water to a beneficial use.
(2) A certificate issued on an application for one of the following types of projects need show no more than the facts shown in the proof submitted under Section 73-3-16:
(a) a project constructed according to Chapter 10, Board of Water Resources - Division of Water Resources;
(b) a federal project constructed by the United States Bureau of Reclamation, referred to in Section 73-3-16; and
(c) a surface water storage facility in excess of 1,000 acre-feet constructed by a public water supplier.
(3) A certificate issued under this section does not:
(a) extend the rights described in the application; or
(b) constitute a determination by the state engineer as to whether the perfected appropriation or change has or may result in interference, impairment, injury, or other harm to another water right.
(4) Failure to file proof of appropriation or proof of change of the water on or before the date set for the filing causes the application to lapse.
(5)
(a) One copy of a certificate issued under this section shall be filed in the office of the state engineer and the other copy shall be delivered to the appropriator or to the person making the change who may record the certificate in the office of the county recorder of the county in which the water is diverted from the natural stream or source.
(b) The state engineer is not required to deliver a copy of a certificate issued under this section to a person other than the appropriator or the person making the change.
(6) The certificate issued under this section is prima facie evidence of the owner's right to use the water in the quantity, for the purpose, at the place, and during the time specified in the certificate, subject to prior rights.

Amended by Chapter 233, 2024 General Session

73-3-18 Lapse of application -- Notice -- Reinstatement -- Priorities -- Assignment of application -- Filing and recording -- Constructive notice -- Effect of failure to record.
(1) If an application lapses for failure of the applicant to comply with a provision of this title or an order of the state engineer, the state engineer shall promptly give notice of the lapse to the applicant by regular mail, or send notice electronically if receipt is verifiable.
(2)
(a) The state engineer may, upon a showing of reasonable cause, reinstate a lapsed application if, no later than 60 days after the state engineer mails or sends electronically the notice of lapse described in Subsection (1), the applicant files:
(i) a request to reinstate the application using a reinstatement form provided by the state engineer; and
(ii) a request for an extension of time under Section 73-3-12.
(b) Except as provided in Subsection (2)(c), the state engineer shall change the date of priority of a reinstated application to the date the request for reinstatement was filed.
(c) The original priority date of a lapsed application may not be reinstated, except upon a showing of mistake of the state engineer or fraud.

(3) Except as provided in Section 73-3-5.6, Section 73-3-12, Section 73-3-20, or Subsection (2), the priority of an application is determined by the day on which the state engineer's office receives the written application.
(4) Before the state engineer issues a certificate of appropriation, a right claimed under an application for the appropriation of water may be assigned by a written instrument, including by use of a form provided by the state engineer's office.
(5)
  (a) An instrument assigning a right described in Subsection (4) shall be recorded in the office of the applicable county recorder to provide notice of the instrument's contents.
  (b) Beginning July 1, 2017, the state engineer shall consider an assignment using the state engineer's form described in Subsection (4) that is recorded and forwarded to the state engineer as a submitted report of water right conveyance for purposes of fulfilling Subsection 73-1-10(3)(a).
(6) An instrument described in Subsection (4) that is not recorded as described in Subsection (5) is void against any subsequent assignee in good faith and for valuable consideration of the same application or any portion of the same application, if the subsequent assignee's own assignment is recorded as described in Subsection (5) first.

Amended by Chapter 27, 2025 General Session

73-3-19 Right of entry on private property -- By applicant -- Bond -- Priority.

Whenever any applicant for the use of water from any stream or water source must necessarily enter upon private property in order to make a survey to secure the required information for making a water filing and is refused by the owner or possessor of such property such right of entry, the applicant may petition the district court for an order granting such right, and after notice and hearing, such court may grant such permission, on security being given to pay all damage caused thereby to the owner of such property. In such case the priority of such application shall date from the filing of such petition with the district court as aforesaid.

Amended by Chapter 365, 2024 General Session

73-3-20 Right to divert appropriated waters into natural streams -- Requirements -- Storage in reservoir -- Information required by state engineer -- Lapse of application.

(1) Upon application in writing and approval of the state engineer, any appropriated water may, for the purpose of preventing waste and facilitating distribution, be turned from the channel of any stream or any lake or other body of water, into the channel of any natural stream or natural body of water or into a reservoir constructed across the bed of any natural stream, and commingled with its waters, and a like quantity less the quantity lost by evaporation and seepage may be taken out, either above or below the point where emptied into the stream, body of water or reservoir. In so doing, the original water in such stream, body of water, or reservoir must not be deteriorated in quality or diminished in quantity for the purpose used, and the additional water turned in shall bear its share of the expense of maintenance of such reservoir and an equitable proportion of the cost of the reservoir site and its construction. Any person having stored that person's appropriated water in a reservoir for a beneficial purpose shall be permitted to withdraw the water at the times and in the quantities as the person's necessities may require if the withdrawal does not interfere with the rights of others.
(2)
  (a) The state engineer may require an owner of an approved exchange application to provide:

(i) information about the diverting works constructed;
(ii) information about the extent to which the development under the exchange has occurred; or
(iii) other information the state engineer considers necessary to:
(A) ensure that the exchange is taking place;
(B) establish that the owner still has a legal interest in the underlying water right used as the basis for the exchange; or
(C) determine the quantity of water being exchanged.
(b) The owner of an exchange application shall provide the information requested by the state engineer within 60 days after the day on which the owner received the notification from the state engineer.
(3) The state engineer may lapse an approved exchange application described in Subsection (1) if:
(a) the applicant has lost a legal interest in the underlying right used to facilitate the exchange;
(b) the exchange can no longer be carried out as stated in the application;
(c) the applicant has not complied with the conditions established in approving the exchange; or
(d) the applicant fails to provide the information requested by the state engineer under Subsection (2).
(4)
(a) Notwithstanding Section 73-3-18, the state engineer may reinstate an exchange application that was lapsed by the state engineer under Subsection (3), if:
(i) the applicant files with the state engineer a written request to reinstate the exchange application;
(ii) the exchange application is for a small amount of water, as defined in Section 73-3-5.6;
(iii) the applicant demonstrates that, before the exchange application lapsed, the applicant or the applicant's predecessor in interest, in accordance with the exchange application:
(A) constructed and occupied a residence; and
(B) beneficially used the water at the residence; and
(iv) the applicant demonstrates that none of the conditions described in Subsection (3) for lapsing an approved exchange application still exist.
(b) The priority of an exchange application reinstated under this section shall be the day on which the applicant files a request to reinstate an exchange application that was lapsed by the state engineer.

Amended by Chapter 429, 2013 General Session

73-3-21.1 Priorities between appropriators.

Appropriators shall have priority among themselves according to the dates of their respective appropriations, so that each appropriator is entitled to receive the appropriator's whole supply before any subsequent appropriator has any right.

Amended by Chapter 311, 2022 General Session

73-3-23 Replacement of water.

In all cases of appropriations of underground water the right of replacement is hereby granted to any junior appropriator whose appropriation may diminish the quantity or injuriously affect the quality of appropriated underground water in which the right to the use thereof has been established as provided by law. No replacement may be made until application in writing has been made to and approved by the state engineer. In all cases replacement shall be at the sole cost and expense of the applicant and subject to such rules and regulations as the state engineer

may prescribe. The right of eminent domain is hereby granted to any applicant for the purpose of replacement as provided herein.

No Change Since 1953

73-3-25 Well driller's license -- Enforcement.

(1) As used in this section:
  (a) "Well" means an open or cased excavation or borehole for diverting, using, or monitoring underground water made by any construction method.
  (b) "Well driller" means a person with a license to engage in well drilling for compensation or otherwise.
  (c) "Well drilling" means the act of:
    (i) drilling, constructing, repairing, renovating, deepening, cleaning, developing, or abandoning a well; or
    (ii) installing or repairing a pump in a well.
(2)
  (a) Notwithstanding Subsection (3), a person who installs or repairs a pump in a well on the person's own property for the person's own use is not required to obtain a license under this section.
  (b) Except as provided in Subsection (2)(c), a person who installs or repairs a pump in a well for compensation:
    (i) shall obtain a license as required by Subsection (3); and
    (ii) is subject to all of this section's provisions.
  (c) Notwithstanding the requirements of Subsection (2)(b), a person who performs electrical repairs on a pump in a well is not required to obtain a license as required by Subsection (3).
(3)
  (a)
    (i) A person shall obtain a license as provided in this section before engaging in well drilling.
    (ii) The state engineer may enforce Subsection (3)(a)(i) in accordance with Sections 73-2-25 and 73-2-26.
  (b) A person applying for a well driller license shall file a well driller bond:
    (i) with the state engineer; and
    (ii) payable to the Division of Water Rights.
  (c)
    (i) Compliance with this section and the rules authorized by this section is required to obtain or renew a well driller license.
    (ii) The state engineer may refuse to issue a license if it appears an applicant violates a rule authorized by this section.
  (d) A well driller license is not transferable.
(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer may make rules establishing:
  (a) the amount, form, and general administrative requirements of a well driller bond;
  (b) the amount of a well driller fine;
  (c) minimum well drilling standards;
  (d) well driller reporting requirements;
  (e) the requirements for obtaining a well driller license, including:
    (i) a well driller license application form;
    (ii) the license expiration date; and

(iii) the license renewal cycle; and
(f) a procedure to enforce a well drilling standard or other well drilling requirement.
(5)
(a) A well driller shall submit a report to the state engineer:
(i) containing data relating to each well;
(ii) within 30 days after the completion or abandonment of the well drilling;
(iii) on forms furnished by the state engineer; and
(iv) containing information required by the state engineer.
(b) In accordance with Sections 73-2-25 and 73-2-26, the state engineer may commence an enforcement action against a person who fails to submit a report required by Subsection (5)
(a) within 90 days of the day on which the well driller license lapses.
(6)
(a) A well driller shall comply with the rules authorized by this section.
(b) If the state engineer determines that a well driller has failed to comply with a rule, the state engineer may, in accordance with the procedures established in rule:
(i)
(A) order that a well driller pay a fine; or
(B) revoke or suspend the well driller's license; and
(ii) exact the bond.
(7)
(a) The state engineer shall retain the money from a fine or exacting a bond as a dedicated credit.
(b) The state engineer may expend:
(i) money retained from a fine for:
(A) well drilling inspection;
(B) well drilling enforcement; or
(C) well driller education; and
(ii) money retained from exacting a bond to investigate or correct a deficiency by a well driller that could adversely affect the public interest resulting from noncompliance with a rule authorized by this section.

Amended by Chapter 124, 2010 General Session

73-3-26 Violations -- Penalty.
(1) A person engaged in well drilling, as described in Subsection 73-3-25(1)(c), is guilty of a crime punishable under Section 73-2-27 if the person does not have a current license to engage in well drilling, as provided by this title.
(2) Each day that a violation under Subsection (1) continues is a separate offense.

Amended by Chapter 369, 2014 General Session

73-3-27 Requests for segregation or consolidation.
(1)
(a) Upon written request, the state engineer shall segregate into two or more parts the following in the state engineer's records:
(i) an application to:
(A) under Section 73-3-2, appropriate water; or
(B) under Section 73-3-3, permanently change:

(I) the point of diversion;
(II) the place of water use; or
(III) the purpose of water use; and
(ii) a water right for which:
(A) the state engineer has issued a certificate according to Section 73-3-17;
(B) a court has entered a judgment according to Section 73-4-15; and
(C) a person has filed a claim according to Section 73-5-13.
(b) A person shall:
(i) submit the request authorized by Subsection (1)(a) on a form furnished by the state engineer; and
(ii) include:
(A) the water right number to be segregated;
(B) the name and post-office address of the owner of the application or water right;
(C) a statement of the nature of the proposed segregation;
(D) the reasons for the proposed segregation; and
(E) other information the state engineer may require to accomplish the segregation.
(c) Notwithstanding Subsection (1)(a):
(i) a person may not segregate saved water, as defined in Section 73-3-3, from the underlying water right that serves as the basis of the saved water, except in accordance with rules made under Section 73-2-1 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
(ii) a person may not segregate a dedicated water application, as defined in Section 73-3-30.3, from the underlying water right or application that serves as the basis of the dedicated water application.
(2)
(a) An action taken by the state engineer on an application or water right before segregation is applicable in all respects to the segregated parts of the application or water right.
(b) After the state engineer segregates the application or water right, each segregated part is a separate application or water right in the state engineer's records.
(c) The segregation of an application or a water right in the state engineer's records does not:
(i) confirm the validity or good standing of the segregated parts of the application or water right; or
(ii) extend the time for the construction of works for an application.
(3) Upon written request, the state engineer may consolidate two or more applications or water rights if the applications or water rights:
(a) are from the same source;
(b) have the same priority date; and
(c) are sufficiently consistent in definition that the consolidated application or water right may be described without referring to the characteristics of the individual application or water right that existed before consolidation.

Amended by Chapter 313, 2026 General Session

73-3-28 Replacement wells -- Requirements -- State engineer's approval -- Application to drill -- Filing -- Form -- Contents -- Notice -- Fees -- Definition -- Plugging of old well.

An existing well may be replaced with a replacement well within a radius of 150 feet from the existing well without the filing of a change application under Section 73-3-3, upon approval first having been obtained from the state engineer.

Such request for permission to drill a replacement well shall be filed with the state engineer upon a form to be furnished by the state engineer. Such form shall contain, but need not be limited to, the name and post office address of the person, corporation or association making the request. The number of the claim or application filed with the state engineer covering the well which is being replaced, the number of the award if in a decree, the reason for the replacement, the location of the replacement well with reference to the nearest United States land survey corner, and from the old well, and the name of the driller employed by the applicant to do the work.

No filing fee shall be required for the filing of such a request for permission to drill a replacement well and the state engineer need give only such notice as, in his judgment, is necessary to protect existing rights and in the event the state engineer shall determine that it is necessary to publish notice the advertising fee shall be paid in advance by the applicant.

The term "replacement well" as used herein means a new well drilled for the sole purpose of replacing an existing well which is impaired or made useless by structural difficulties and no new right in the use of water accrues. Upon completion of the new well the old well must be plugged by the applicant in a manner satisfactory to the state engineer.

Amended by Chapter 136, 2001 General Session

73-3-29 Relocation of natural streams -- Written permit required -- Emergency work -- Violations.

(1) Except as provided in Subsection (2), a state agency, county, city, corporation, or person may not relocate any natural stream channel or alter the beds and banks of any natural stream without first obtaining the written approval of the state engineer.

(2)

(a) The state engineer may issue an emergency permit or order to relocate a natural stream channel or alter the beds and banks of a natural stream as provided by this Subsection (2) and Section 63G-4-502.

(b) Subject to the requirements of this section, a person may take steps reasonably necessary to alleviate or mitigate a threat before a written permit is issued if an emergency situation arises which involves:

(i) immediate or actual flooding; or

(ii) threatens the health or well-being of a person.

(c)

(i) If a threat described in Subsection (2)(b) occurs during normal working hours, the state engineer or the state engineer's representative must be notified immediately of the threat. After receiving notification of the threat, the state engineer or the state engineer's representative may orally approve action to alleviate or mitigate the threat.

(ii) If a threat described in Subsection (2)(b) does not occur during normal working hours, action may be taken to alleviate or mitigate the threat and the state engineer or the state engineer's representative shall be notified of the action taken on the first working day following the action.

(d) A written application outlining the action taken or the action proposed to be taken to alleviate or mitigate a threat described in Subsection (2)(b) shall be submitted to the state engineer within two working days following notification of the threat to the state engineer or the state engineer's representative.

(e)

(i) The state engineer shall inspect in a timely manner the site where the emergency action was taken.

(ii) After inspection, the state engineer may impose additional requirements, including mitigation measures.

(f) Adjudicative proceedings following the emergency work shall be informal unless otherwise designated by the state engineer.

(3) An application to relocate any natural stream channel or alter the beds and banks of any natural stream shall be in writing and shall contain the following:

(a) the name and address of the applicant;

(b) a complete and detailed statement of the location, nature, and type of relocation or alteration;

(c) the methods of construction;

(d) the purposes of the application; and

(e) any additional information that the state engineer considers necessary, including plans and specifications for the construction of works.

(4)

(a) The state engineer shall, without undue delay, conduct investigations that may be reasonably necessary to determine whether the relocation or alteration will:

(i) impair vested water rights;

(ii) unreasonably or unnecessarily affect a recreational use or the natural stream environment;

(iii) unreasonably or unnecessarily endanger aquatic wildlife; or

(iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.

(b) The state engineer shall approve the application unless the relocation or alteration will:

(i) impair vested water rights;

(ii) unreasonably or unnecessarily adversely affect a public recreational use or the natural stream environment;

(iii) unreasonably or unnecessarily endanger aquatic wildlife; or

(iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.

(c) The state engineer may approve the application, in whole or in part, with any reasonable terms to protect vested water rights, a public recreational use, the natural stream environment, or aquatic wildlife.

(5) No cost incurred by the applicant, including any cost incurred to comply with the terms imposed by the state engineer, is reimbursable by the Division of Water Rights.

(6) Except as provided in Subsection (2), a person who knowingly or intentionally relocates a natural stream channel, or alters the bed or bank of a natural stream channel without first obtaining the written approval of the state engineer is guilty of a crime punishable under Section 73-2-27.

(7) The state engineer may issue an order for the repair and restoration of the bed and banks of a natural stream channel altered contrary to, or without, a permit issued for that purpose.

Amended by Chapter 369, 2014 General Session

73-3-30 Application for an instream flow or use on sovereign lands -- Application for delivery to a reservoir.

(1) As used in this section:

(a) "Colorado River System" means the same as that term is defined in Sections 73-12a-2 and 73-13-10.

(b) "Dedicated water application" means the same as that term is defined in Section 73-3-30.3.

(c) "Division" means:

(i) the Division of Wildlife Resources created in Section 23A-2-201;

(ii) the Division of State Parks created in Section 79-4-201; or

(iii) the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

(d) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

(e) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

(f) "Wildlife" means the same as that term is defined in Section 23A-1-101.

(2)

(a) In accordance with Section 73-3-3, for a purpose described in Subsection (2)(b):

(i) a division may file a permanent change application, a fixed time change application, a temporary change application, or a dedicated water application; or

(ii) a person entitled to the use of water may file a fixed time change application, a temporary change application, or a dedicated water application.

(b) A division or person entitled to the use of water may file an application described in Subsection (2)(a) to provide water within the state for:

(i) an instream flow within a specified section of a natural or altered stream; or

(ii) use on sovereign lands.

(c) The state engineer may not approve an application filed under this Subsection (2) unless the proposed instream flow or use on sovereign lands will contribute to:

(i) the propagation or maintenance of wildlife;

(ii) the management of a state park; or

(iii) the reasonable preservation or enhancement of the natural aquatic environment.

(d) A division may file an application described in Subsection (2)(a)(i) on:

(i) a water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

(C) secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(e) A division may:

(i) purchase a water right for the purposes described in Subsection (2)(b) only with money specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(f) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

(3)

(a) Before filing an application described by Subsection (2)(a)(ii), a person entitled to the use of water shall obtain a division director's written concurrence with the application.

(b) By concurring with a proposed application filed under Subsection (2)(a)(ii), a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

(4)

(a) In accordance with Section 73-3-3, a person entitled to the use of water may file a fixed time change application, a temporary change application, or a dedicated water application for a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with:

(i) Colorado River Drought Contingency Plan Authorization Act, Public Law 116-14;

(ii) a water conservation program funded by the Bureau of Reclamation; or

(iii) a water conservation program authorized by the state.

(b) Before filing an application under this Subsection (4), a person entitled to the use of water shall obtain the written concurrence to the application from the executive director of the Colorado River Authority of Utah, appointed under Section 73-35-401.
(c) By concurring with a proposed application, the executive director of the Colorado River Authority of Utah attests that the water that is the subject of the application can be used consistent with this section.
(5) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:
(a) a legal description of:
(i) the segment of the natural or altered stream that will be the place of use for an instream flow;
(ii) the location where the water will be used on sovereign lands; or
(iii) the reservoir located partially or entirely within the Colorado River System in the state that the water will be delivered to; and
(b) appropriate studies, reports, or other information required by the state engineer demonstrating:
(i) the projected benefit to the public resulting from the application; and
(ii) the necessity for the proposed instream flow or use on sovereign lands.
(6) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.
(7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.
(8) A physical structure or physical diversion from the stream is not required to implement an application under this section.
(9) An approved application described in this section does not create a right of access across private property or allow any infringement of a private property right.
(10) Notwithstanding the other provisions of this section, if the diversion point under a proposed permanent, fixed time, or temporary change application or proposed dedicated water application is located within the lower basin, as defined in Section 73-12a-2:
(a) a person entitled to the use of water, other than a division, may not file the change application or dedicated water application under this section; and
(b) a division may not file the change application or dedicated water application under Subsection (4).

Amended by Chapter 370, 2026 General Session

73-3-30.3 Dedicated water application.
(1) As used in this section:
(a) "Agricultural land" means land in agricultural use, as defined in Section 59-2-502.
(b) "Dedicated water" means water that has been recognized for delivery or use under Section 73-3-30 and a dedicated water application.
(c) "Dedicated water application" means an application to change the existing nature of use and place of use for a water right by adding a nature of use for:
(i) an instream flow within a specified reach of a natural or altered stream;
(ii) use on sovereign lands; or
(iii) a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with this section.
(d) "Split season use" means making sequential use of a portion of a water right in the same calendar year.

(2) A dedicated water application may:
(a) be filed for:
(i) a fixed period of time; or
(ii) an indefinite period of time; and
(b) include a split season use.
(3) Approval of a dedicated water application does not:
(a) change an existing element of the underlying water right;
(b) extend the time for filing proof or taking other required action associated with the underlying water right; or
(c) require the applicant to make dedicated water available for use in a given year or in a specific quantity or volume.
(4)
(a) The state engineer shall process a dedicated water application in accordance with Sections 73-3-3 and 73-3-8.
(b) The state engineer shall prioritize the processing of a dedicated water application.
(c) The state engineer may deny a dedicated water application if the state engineer determines that the dedicated water application would result in land being removed from agricultural land for a full irrigation season in more than two years out of a five-year period on the same agricultural field.
(5) The state engineer may require an owner of an approved dedicated water application under this section to provide:
(a) annual notice of intent to exercise the dedicated water application;
(b) information about the annual volume of water to be dedicated by the owner from the underlying water right; and
(c) other information the state engineer considers necessary to:
(i) ensure the dedication of water is taking place;
(ii) establish that the owner still has a legal interest in the underlying water right used as the basis for the dedication of water; or
(iii) determine the quantity of water being dedicated.
(6) An approved dedicated water application lapses:
(a) automatically on the date the underlying water right that is the basis of the dedicated application:
(i) lapses;
(ii) is withdrawn; or
(iii) is declared forfeited or abandoned; or
(b) upon notice from the state engineer if:
(i) the applicant no longer holds a legal interest in the underlying water right that is the basis of the dedicated water application;
(ii) the delivery of dedicated water can no longer be carried out as stated in the dedicated water application;
(iii) the applicant has not complied with the conditions established by the state engineer in the order approving the dedicated water application; or
(iv) the applicant fails to provide the information requested by the state engineer under Subsection (5).

Enacted by Chapter 313, 2026 General Session

73-3-30.5 Standardized leasing of water described in instream flow provisions.

(1) As used in this section:
(a) "Concurring partner" means:
(i) a division, as defined in Section 73-3-30; or
(ii) the executive director of the Colorado River Authority of Utah, appointed under Section 73-35-401.
(b) "Land in agricultural use" means the same as that term is defined in Section 59-2-502.
(c) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.
(d) "Split season use" means making sequential use of a portion of a water right in the same calendar year.
(2) The state engineer:
(a) shall prioritize the processing of an application if the conditions of Subsections (3) and (4) are met; and
(b) may adjust the prioritization described in Subsection (2)(a) as necessary to address:
(i) a protest to the application; or
(ii) unusual conditions that make the initial prioritization infeasible.
(3) To qualify for prioritization under this section, a lease:
(a) may only lease water:
(i) for a beneficial use described in Section 73-3-30;
(ii) on a water right where the point of diversion is a surface source within an established distribution system served by a water commissioner appointed by the state engineer under Section 73-5-1; and
(iii) when the approved used for the underlying water right is for an irrigation, industrial, or municipal purpose;
(b) may include a lease of water based on split season use; and
(c) may not include a lease of water diverted from an underground source of water.
(4) A person entitled to the use of water who files an application that complies with this section shall:
(a) file the application by no later than December 1 for a lease agreement intended to commence on or after April 1 in the following year;
(b) describe in the application the concurrence of the applicable concurring partner;
(c) for an application that includes a split season use on land in agricultural use, identify a single period during the water right period of use, of at least four consecutive weeks, that will be the basis for the split season use; and
(d) confirm that the application based on a lease of water meets the conditions of Subsection (3) and this Subsection (4).

Enacted by Chapter 317, 2026 General Session

73-3-31 Water right for watering livestock on public land -- Public Water Reserve No. 107.
(1) As used in this section:
(a) "Acquire" means to gain the right to use water through obtaining:
(i) an approved application to appropriate water; or
(ii) a perfected water right.
(b) "Allotment" means a designated area of public land available for livestock grazing.
(c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.
(d)

(i) "Beneficial user" means the person that has the right to use the grazing permit.
(ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.
(e) "Grazing permit" means a document authorizing livestock to graze on an allotment.
(f) "Livestock" means a domestic animal raised or kept for profit or personal use.
(g) "Livestock watering right" means a right for:
(i) livestock to consume water:
(A) directly from the water source located on public land; or
(B) from an impoundment located on public land into which the water is diverted; and
(ii) associated uses of water related to the raising and care of livestock on public land.
(h)
(i) "Public land" means land owned or managed by the United States or the state.
(ii) "Public land" does not mean land owned by:
(A) the Division of Wildlife Resources;
(B) the School and Institutional Trust Lands Administration;
(C) the Division of State Parks; or
(D) the Division of Forestry, Fire, and State Lands.
(i) "Public land agency" means the agency that owns or manages the public land.
(j) "Public Water Reserve No. 107" means a claim for water under Public Water Reserve No. 107, Exec. Order of April 17, 1926.
(2) A public land agency may not:
(a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;
(b) require any water user to apply for, or acquire a water right in the name of the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or
(c) acquire a livestock watering right if the public land agency is not a beneficial user.
(3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right or Public Water Reserve No. 107 claim without the written consent of the beneficial user.
(4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.
(5) A livestock watering right or Public Water Reserve No. 107 claim is appurtenant to the allotment on which the livestock is watered.
(6) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the water right appurtenant to the allotment.
(7) If a federal land management agency reduces livestock grazing animal unit month (AUMs) on federal grazing allotments, and the reduction results in the potential, partial forfeiture of an appropriated water right:
(a) a beneficial user may file a nonuse application under Section 73-1-4 for the amount of water in question for nonuse as a livestock water right consistent with this section and other state law;
(b) the state engineer shall approve a nonuse application filed under this Subsection (7); and
(c) the amount of water in question for nonuse as a livestock water right may not be used for a purpose other than watering livestock.
(8) Except under Subsection (9), nothing in this section affects a livestock watering right held by a public land agency on May 13, 2014.

(9)
(a) To recognize a Public Water Reserve No. 107 claim for a spring or water hole on public land owned or managed by a federal public land agency, the state engineer shall:
(i) require that the public land agency:
(A) file a statement of claim pursuant to Section 73-4-5 with the state engineer;
(B) file the statement of claim described in Subsection (9)(a)(i)(A) with the written consent of the beneficial user of the Public Water Reserve No. 107 claim; and
(C) establish the extent to which, as of April 17, 1926, the Public Water Reserve No. 107 use supported the beneficial use of livestock watering and human consumption by grazing permittees, including the quantity of water required to fulfill the purpose of the claim;
(ii) determine whether the spring or water hole claimed under Public Water Reserve No. 107:
(A) is an important spring or a water hole that provides enough water for general use for livestock watering purposes;
(B) affords more than enough water for the use of one family and the family's domestic animals;
(C) is accessible to livestock and satisfies the need for livestock watering and human consumption by grazing permittees;
(D) existed on April 17, 1926; and
(E) is formed naturally and not due to artificial development or human-made structures; and
(iii) determine whether the purposes described in this Subsection (9) would be frustrated without the water.
(b) The state engineer may not recognize more than one Public Water Reserve No. 107 claim within a 40-acre parcel or a Public Water Reserve No. 107 claim that is closer than 1/4 mile from another Public Water Reserve No. 107 claim.
(c) The state engineer may not recognize a Public Water Reserve No. 107 claim that has as its beneficial use the watering of wildlife, as defined in Section 23A-1-101.
(d) A Public Water Reserve No. 107 claim may not impair a water right that existed before April 17, 1926.

Amended by Chapter 73, 2025 General Session

73-3-32 Filing protest or judicial review action not required to bring judicial interference claim.

The following are not a prerequisite to filing a judicial action for interference, damages, declaratory, injunctive, or other relief, based on the use of water under an existing water right:
(1) filing a protest to a water right application filed pursuant to this chapter, or to a claim filed under Section 73-5-13; or
(2) participation as a party in a judicial review action challenging the state engineer's action on a water right application filed pursuant to this chapter.

Enacted by Chapter 278, 2020 General Session