

**Effective 5/10/2016**

**73-4-9.5 List of unclaimed rights of record.**

- (1) After the last day on which a claimant may file a statement of claim in accordance with Section 73-4-5, the state engineer shall:
  - (a) file with the court a list of unclaimed rights of record listing each water right of record in the state engineer's office for which a statement of claim was not timely filed, that includes:
    - (i) the water right number;
    - (ii) the point of diversion; and
    - (iii) the owner of the water right as recognized in the state engineer's records;
  - (b) serve notice of the list of unclaimed rights of record on all identified potential claimants that were served with a summons, in the same manner as provided in Subsection 73-4-11(1)(c); and
  - (c) hold a public meeting in the area covered by the division or subdivision to explain the list of unclaimed rights of record.
- (2) A claimant who desires to object to the state engineer's list of unclaimed rights of record shall, within 90 days of the day on which the state engineer served the potential claimant notice of the list of unclaimed rights of record, file:
  - (a) a written objection to the list of unclaimed rights of record with the district court; and
  - (b) a statement of claim, as provided in this chapter, with the district court and the state engineer.
- (3) The state engineer shall evaluate and make a recommendation in the proposed determination for a water right placed on the list of unclaimed rights of record if:
  - (a) the claimant files a timely objection to the list of unclaimed rights in accordance with Subsection (2); and
  - (b) the court determines that a claimant's failure to file a timely statement of claim is excused by:
    - (i) circumstances beyond the claimant's control;
    - (ii) mistake; or
    - (iii) any other reason justifying relief.
- (4) If a claimant fails to file a timely statement of claim, as provided in this chapter, for a right of record in the state engineer's office and the failure to file a timely claim is not excused by the court as provided in Subsection (3), the claimant is forever barred and estopped from asserting the right to the use of water included in the list and the right shall be considered abandoned.
- (5) After resolving all objections to the list of unclaimed rights of record, the court shall render a judgment for the list of unclaimed rights of record that:
  - (a) identifies any water rights on the list of unclaimed rights that are not abandoned because the court excuses the failure to file a statement of claim as provided in Subsection (3);
  - (b) adjudges the unclaimed rights abandoned; and
  - (c) may prohibit future claims from being filed for rights not of record in the state engineer's office, under this chapter and Section 73-5-13, in the general adjudication area, division, or subdivision.

Enacted by Chapter 72, 2016 General Session