

PROOF OF APPROPRIATION REQUIREMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael R. Styler

AN ACT RELATING TO WATER AND IRRIGATION; REQUIRING PROOF OF APPROPRIATION OR PROOF OF CHANGE OF WATER USE TO CONFORM TO RULES AND STANDARDS OF THE STATE ENGINEER.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

73-3-16, as last amended by Chapter 190, Laws of Utah 1973

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

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

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

(1) Sixty days before the date set for the proof of appropriation or proof of change to be made the state engineer shall notify the applicant **BY MAIL** [by certified mail] when proof of completion of the works and application of the water to a beneficial use will be due.

(2) On or before the date set for completing [such] the proof in accordance with [his] the application the applicant shall file proof [to] with the state engineer[;] on [~~blanks to be~~] forms furnished by the state engineer[~~, by a statement descriptive~~].

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

(a) a description of the works constructed[~~, and of~~];

(b) the quantity of water in acre-feet or the flow in second-feet [~~appropriated, and of~~] diverted, or both;

(c) the method of applying the water to beneficial use[~~, with~~]; and

1 (d) (i) detailed measurements of water put to beneficial use~~[- giving]~~;

2 (ii) the date the measurements were made; and

3 (iii) the name of the person making the measurements~~[- provided, however, that on]~~.

4 (4) (a) On applications ~~[heretofore or hereafter]~~ filed for appropriation or permanent
5 change of use of water to provide a water supply for state projects constructed pursuant to Title
6 73, Chapter 10, ~~[Utah Code Annotated 1953]~~ Board of Water Resources - Division of Water
7 Resources, ~~[and]~~ or for federal projects constructed by the United States Bureau of Reclamation
8 for the use and benefit of the state, any of its agencies, its political subdivisions, public and
9 quasi-municipal corporations, or water users' associations of which the state, its agencies, political
10 subdivisions, or public and quasi-municipal corporations are stockholders, the proof ~~[need show~~
11 ~~no more than]~~ shall include:

12 ~~[(a) completion of]~~ (i) a statement indicating construction of the project works~~[-]~~ has been
13 completed;

14 ~~[(b)]~~ (ii) a description of the major features ~~[thereof]~~ with appropriate maps, profiles,
15 drawings, and reservoir area-capacity curves~~[-]~~;

16 ~~[(c)]~~ (iii) a description of the point or points of diversion and rediversion~~[-]~~;

17 ~~[(d)]~~ (iv) project operation data~~[-]~~;

18 ~~[(e) a description by configuration on]~~ (v) a map ~~[of]~~ showing the place of use of water
19 and a statement of the purpose~~[-]~~ and method of use~~[-]~~;

20 ~~[(f)]~~ (vi) the project plan for beneficial use of water under ~~[such]~~ the applications and the
21 quantity of water required~~[-]~~; and

22 ~~[(g) the installation of necessary]~~ (vii) a statement indicating what type of measuring
23 devices have been installed.

24 (b) The ~~[chairman of the Utah water and power board]~~ director of the Division of Water
25 Resources shall sign proofs for the state projects and ~~[the duty]~~ an authorized official of the Bureau
26 of Reclamation shall sign proofs for the federal projects specified ~~[above]~~ in Subsection (a).

27 (5) The proof on all applications shall be sworn to by the applicant or ~~[his duty]~~ the
28 applicant's appointed representative and proof engineer~~[- and shall be accompanied by]~~.

29 (6) (a) Except as provided in Subsection (b), when filing proof, the applicant shall submit
30 maps, profiles ~~[(in case of power use only)]~~, and drawings made ~~[on tracing linen]~~ by a ~~[reputable]~~
31 ~~[registered]~~ h [land surveyor licensed in Utah or] UTAH LICENSED LAND SURVEYOR OR UTAH
31a LICENSED PROFESSIONAL h engineer~~[- and shall]~~ that show ~~[fully and correctly]~~;

1 (i) the location of the completed works [~~with reference to a United States land survey~~
2 corner if within a distance of six miles of a land survey corner, the tie may be to a mineral
3 monument, or to a permanent federal triangulation or traverse monument. If in unsurveyed
4 territory and not within six miles of a mineral or federal triangulation monument, such point may
5 be designated with reference to a permanent prominent natural object. The proof shall also show];

6 (ii) the nature and extent of the completed works[;];

7 (iii) the natural stream or source from which and the point where the water is diverted and,
8 in the case of a nonconsumptive use, the point where the water is returned[~~The~~]; and

9 (iv) the place of use [~~shall be shown by legal subdivisions consisting of forty-acre tracts~~
10 according to United States land surveys on the maps and in the written proof, together with acreage
11 in case of use for irrigation, but when water is used on less than a legal subdivision the description
12 both in the written proof and on the map need not be given by metes and bounds but the maps will
13 show the configuration of the place of use, together with the acreage of irrigated land. The
14 diverting channel on the map need be shown only from the point of diversion to the point where
15 distribution of water begins and may be represented by traverse without metes and bounds. Such
16 other matter must be furnished as will fully and correctly delineate the work done and conform to
17 the general rules and regulations of the state engineer's office consistent with this section. The
18 maps, profiles (where necessary) and drawings shall be verified by oath of the engineer who made
19 them and by the applicant whose work they represent, in such form as the state engineer shall by
20 general rule prescribe].

21 (b) The state engineer may waive the filing of maps, profiles, and drawings if in [his] the
22 state engineer's opinion the written proof adequately describes the works and the nature and extent
23 of beneficial use.

24 (7) The completed proof shall conform to rules and standards established by the state
25 engineer.

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

29 (a) waive the requirements of this section and [of] Section 73-3-17 [~~as to proof of~~
30 appropriation and proof of change and as to issuance of certificate of appropriation and certificate
31 of change,]; and [to]

1 (b) permit each owner of an application to file a verified statement to the effect that [he]
2 the applicant has completed [his] the appropriation or change and elects to file a statement of water
3 users claim in [such] the proposed determination of water rights or any supplement [thereto] to it
4 in accordance with [~~and pursuant to~~] Title 73, Chapter 4, Determination of Water Rights, in lieu
5 of proof of appropriation or proof of change.

Legislative Review Note
as of 1-9-98 12:05 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel