

28 the state[-]; or

29 (b) the Bureau of Reclamation.

30 (2) (a) The construction of the works and the application of water to beneficial use
31 shall be diligently prosecuted to completion within the time fixed by the state engineer.

32 (b) Extensions of time, not exceeding 50 years from the date of approval of the
33 application, except as provided in Subsection (2)(c), may be granted by the state engineer on
34 proper showing of diligence or reasonable cause for delay.

35 (c) Additional extensions of time, beyond 50 years, may be granted by the state
36 engineer on applications held by any public agency, if the public agency can demonstrate the
37 water will be needed to meet the reasonable future requirements of the public.

38 (d) All requests for extension of time shall be made by signed statement and shall be
39 filed in the office of the state engineer on or before the date fixed for filing proof of
40 appropriation.

41 (e) Extensions not exceeding 14 years after the date of approval may be granted by the
42 state engineer upon a sufficient showing by signed statement, but extensions beyond 14 years
43 shall be granted only after application and publication of notice.

44 (f) (i) The state engineer shall publish a notice of the application once a week for two
45 successive weeks, in a newspaper of general circulation, in the county in which the source of
46 the water supply is located and where the water is to be used.

47 (ii) The notice shall:

48 (A) state that an application has been made; and

49 (B) specify where the interested party may obtain additional information relating to the
50 application.

51 (g) Any person who owns a water right from the source of supply referred to in
52 Subsection (2)(f) or holds an application from that source of supply may file a protest with the
53 state engineer:

54 (i) within 20 days after the notice is published, if the adjudicative proceeding is
55 informal; and

56 (ii) within 30 days after the notice is published, if the adjudicative proceeding is
57 formal.

58 (h) In considering an application to extend the time in which to place water to

59 beneficial use under an approved application, the state engineer shall deny the extension and
60 declare the application lapsed, unless the applicant affirmatively shows that the applicant has
61 exercised or is exercising reasonable and due diligence in working toward completion of the
62 appropriation.

63 (i) (i) If reasonable and due diligence is shown by the applicant, the state engineer shall
64 approve the extension.

65 (ii) The approved extension is effective so long as the applicant continues to exercise
66 reasonable diligence in completing the appropriation.

67 (j) The state engineer shall consider the holding of an approved application by any
68 public agency to meet the reasonable future requirements of the public to be reasonable and
69 due diligence within the meaning of this section for the first 50 years. The state engineer may
70 approve extensions beyond 50 years for a public agency, if the agency provides information
71 sufficient to demonstrate the water will be needed to meet the reasonable future requirements
72 of the public.

73 (k) If the state engineer finds unjustified delay or lack of diligence in prosecuting the
74 works to completion, the state engineer may deny the extension or may grant the request in part
75 or upon conditions, including a reduction of the priority of all or part of the application.

76 (3) (a) Except as provided in Subsections (3)(b) and (c), an application upon which
77 proof has not been submitted shall lapse and have no further force or effect after the expiration
78 of 50 years from the date of its approval.

79 (b) If the works are constructed with which to make beneficial use of the water applied
80 for, the state engineer may, upon showing of that fact, grant additional time beyond the 50-year
81 period in which to make proof.

82 (c) An application held by a public agency to meet the reasonable future requirements
83 of the public, for which proof of appropriation has not been submitted, shall lapse, unless
84 extended as provided in Subsection (2)(j).

Legislative Review Note

as of 1-25-06 6:39 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel