

1 **WATER RIGHT GENERAL ADJUDICATION**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Patrick Painter**

6 Senate Sponsor: David P. Hinkins

7

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses matters related to a general adjudication of water rights.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ eliminates a requirement that an objection to a state engineer's proposed
- 14 determination of water rights be verified under oath;
- 15 ▶ provides for a petition to expedite a hearing concerning an objection to a proposed
- 16 determination of water rights;
- 17 ▶ allows a claimant to file a petition seeking to compel the state engineer to issue a
- 18 proposed determination of water rights in a geographically limited portion of the
- 19 general adjudication area; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **73-4-11**, as last amended by Laws of Utah 2009, Chapter 365

28 REPEALS AND REENACTS:

29 **73-4-24**, Utah Code Annotated 1953

30

31 *Be it enacted by the Legislature of the state of Utah:*32 Section 1. Section **73-4-11** is amended to read:33 **73-4-11. Report and recommendation by engineer to court -- Notice -- Public**
34 **meeting.**35 (1) Within 30 days after the expiration of the 90 days allowed for filing statements of
36 claims, the state engineer shall begin to tabulate the facts contained in the statements filed and
37 to investigate, whenever the state engineer shall consider necessary, the facts set forth in the
38 statements by reference to the surveys already made or by further surveys, and shall as
39 expeditiously as possible ~~[make a]~~ report to the court ~~[with the]~~ a recommendation of how all
40 rights involved shall be determined.41 (2) After full consideration of the statements of claims, and of the surveys, records,
42 and files, and after a personal examination of the river system or water source involved, if the
43 examination is considered necessary, the state engineer shall:44 (a) formulate a report and a proposed determination of all rights to the use of the water
45 of the river system or water source;46 (b) mail or deliver a copy of the report and proposed determination to each claimant
47 with notice that any claimant dissatisfied with the report and proposed determination may
48 within 90 days from the date of mailing or delivery file with the clerk of the district court a
49 written objection ~~[verified on oath]~~; and50 (c) hold a public meeting in the area covered by the report and proposed determination
51 to describe the report and proposed determination to the claimants.52 (3) The state engineer shall distribute the waters from the natural streams or other
53 natural sources:54 (a) in accordance with the proposed determination or modification to the proposed
55 determination by court order until a final decree is rendered by the court; or56 (b) if the right to the use of the waters has been decreed or adjudicated, in accordance
57 with the decree until the decree is reversed, modified, vacated, or otherwise legally set aside.

58 Section 2. Section **73-4-24** is repealed and reenacted to read:

59 **73-4-24. Petition for expedited hearing of objection -- Petition for limited**
60 **determination.**

61 (1) A claimant to the use of water may petition the court to expedite the hearing of a
62 valid, timely objection to a report and proposed determination prepared in accordance with
63 Section 73-4-11 in which the claimant has a direct interest.

64 (2) A petition under Subsection (1) shall identify any party directly affected by the
65 objection, if known to the claimant, and state why the hearing of the objection should be
66 expedited.

67 (3) A petitioner under Subsection (1) shall notify those affected by the petition as
68 directed by the court.

69 (4) The court may grant a petition under Subsection (1) if:

70 (a) the court finds that the expedited hearing is necessary in the interest of justice;

71 (b) granting the petition will facilitate a reasonably prompt resolution of the matters
72 raised in the objection; and

73 (c) granting the petition does not prejudice the right of another claimant.

74 (5) During the pendency of a general adjudication suit, a claimant or group of
75 claimants may petition the court to direct the state engineer to survey and prepare a proposed
76 determination for a limited area within the general adjudication area in which the claimant or
77 group of claimants has a claim.

78 (6) The court may grant a petition under Subsection (5) if:

79 (a) the claimant or group of claimants will suffer prejudice if the petition is not
80 granted;

81 (b) the matters raised by the claimant or group of claimants are proper for
82 determination in a general adjudication;

83 (c) granting the petition will not unduly burden the state engineer's resources; and

84 (d) granting the petition will not unduly interfere with the state engineer's discretion to
85 allocate resources for the preparation of another proposed determination.

86 (7) If the court grants a petition under this section, the state engineer shall comply with
87 this chapter in satisfying the court's order.