

**WATER STORAGE PROJECTS**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: Stephen H. Urquhart

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**LONG TITLE**

**Committee Note:**

The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.

The State Water Development Commission recommended this bill.

Membership: 10 legislators 14 non-legislators

Legislative Vote: 8 voting for 0 voting against 2 absent

**General Description:**

This bill amends provisions of Title 73, Water and Irrigation, to address proof and certification of water storage projects.

**Highlighted Provisions:**

This bill:

▶ establishes the proof requirements for a surface water storage facility constructed by a public water supplier;

▶ establishes a certificate requirement for a surface water storage facility constructed by a public water supplier; and

▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **73-3-16**, as last amended by Laws of Utah 2008, Chapter 311

31 **73-3-17**, as last amended by Laws of Utah 2008, Chapter 311



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

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

35 **73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of**  
36 **proof -- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing --**  
37 **Statement in lieu of proof of appropriation or change.**

38 (1) Sixty days before the date set for the proof of appropriation or proof of change to be  
39 made, the state engineer shall notify the applicant by mail when proof of completion of the  
40 works and application of the water to a beneficial use [~~will be~~] is due.

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

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

- 46 (a) a description of the works constructed;
- 47 (b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;
- 48 (c) the method of applying the water to beneficial use; and
- 49 (d) (i) detailed measurements of water put to beneficial use;
- 50 (ii) the date the measurements were made; and
- 51 (iii) the name of the person making the measurements.

52 (4) (a) (i) On applications filed for appropriation or permanent change of use of water  
53 to provide a water supply for state projects constructed pursuant to Title 73, Chapter 10, Board  
54 of Water Resources - Division of Water Resources, or for federal projects constructed by the  
55 United States Bureau of Reclamation for the use and benefit of the state, any of its agencies, its  
56 political subdivisions, public and quasi-municipal corporations, or water users' associations of  
57 which the state, its agencies, political subdivisions, or public and quasi-municipal corporations  
58 are stockholders, the proof shall include:

- 59            [(†)] (A) a statement indicating construction of the project works has been completed;
- 60            [(†)] (B) a description of the major features with appropriate maps, profiles, drawings,  
61 and reservoir area-capacity curves;
- 62            [(†)] (C) a description of the point or points of diversion and rediversion;
- 63            [(†)] (D) project operation data;
- 64            [(†)] (E) a map showing the place of use of water and a statement of the purpose and  
65 method of use;
- 66            [(†)] (F) the project plan for beneficial use of water under the applications and the  
67 quantity of water required; and
- 68            [(†)] (G) a statement indicating what type of measuring devices have been installed.
- 69            [(†)] (i) The director of the Division of Water Resources shall sign proofs for the state  
70 projects and an authorized official of the Bureau of Reclamation shall sign proofs for the  
71 federal projects specified in Subsection (4)(a).
- 72            (b) Proof on an application for appropriation or permanent change for a surface storage  
73 facility in excess of 1,000 acre-feet constructed by a public water supplier to provide a water  
74 supply for the reasonable requirements of the public shall include:
- 75            (i) a description of the completed water storage facility;
- 76            (ii) a description of the major project features and appropriate maps, profiles, drawings,  
77 and reservoir area capacity curves as required by the state engineer;
- 78            (iii) the quantity of water stored in acre-feet;
- 79            (iv) a description of the water distribution facility for the delivery of the water; and
- 80            (v) the project plan for beneficial use of water including any existing contracts for  
81 water delivery.
- 82            (c) The completed proof shall conform to rules established by the state engineer.
- 83            (5) The proof on all applications shall be sworn to by the applicant or the applicant's  
84 appointed representative and proof engineer.
- 85            (6) (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall  
86 submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed  
87 professional engineer that show:
- 88            (i) the location of the completed works;
- 89            (ii) the nature and extent of the completed works;

90 (iii) the natural stream or source from which and the point where the water is diverted  
91 and, in the case of a nonconsumptive use, the point where the water is returned; and

92 (iv) the place of use.

93 (b) The state engineer may waive the filing of maps, profiles, and drawings if in the  
94 state engineer's opinion the written proof adequately describes the works and the nature and  
95 extent of beneficial use.

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

98 (8) In those areas in which general determination proceedings are pending, or have  
99 been concluded, under Title 73, Chapter 4, Determination of Water Rights, the state engineer  
100 may petition the district court for permission to:

101 (a) waive the requirements of this section and Section 73-3-17; and

102 (b) permit each owner of an application to file a verified statement to the effect that the  
103 applicant has completed the appropriation or change and elects to file a statement of water  
104 users claim in the proposed determination of water rights or any supplement to it in accordance  
105 with Title 73, Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or  
106 proof of change.

107 (9) This section does not apply to an instream flow water right authorized by Section  
108 73-3-30.

109 Section 2. Section **73-3-17** is amended to read:

110 **73-3-17. Certificate of appropriation -- Evidence.**

111 (1) Upon it being made to appear to the satisfaction of the state engineer that an  
112 appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed  
113 time change authorized by Section 73-3-30 has been perfected in accordance with the  
114 application, and that the water appropriated or affected by the change has been put to a  
115 beneficial use, as required by Section 73-3-16 or 73-3-30, the state engineer shall issue a  
116 certificate, in duplicate, setting forth:

117 (a) the name and post-office address of the person by whom the water is used;

118 (b) the quantity of water in acre-feet or the flow in second-feet appropriated;

119 (c) the purpose for which the water is used;

120 (d) the time during which the water is to be used each year;

- 121 (e) the name of the stream or water source:
- 122 (i) from which the water is diverted; or
- 123 (ii) within which an instream flow is maintained;
- 124 (f) the date of the appropriation or change; and
- 125 (g) other information that defines the extent and conditions of actual application of the
- 126 water to a beneficial use.

127 (2) ~~[Certificates]~~ A certificate issued on [applications for] an application for one of the  
 128 following types of projects need show no more than the facts shown in the proof submitted  
 129 under Section 73-3-16:

130 (a) projects constructed according to Title 73, Chapter 10, Board of Water Resources -  
 131 Division of Water Resources~~[-, and for the];~~

132 (b) federal projects constructed by the United States Bureau of Reclamation, referred to  
 133 in Section 73-3-16~~[-, need show no more than the facts shown in the proof.];~~ and

134 (c) a surface water storage facility in excess of 1,000 acre-feet constructed by a public  
 135 water supplier.

136 (3) A certificate under this section does not extend the rights described in the  
 137 application.

138 (4) Failure to file proof of appropriation or proof of change of the water on or before  
 139 the date set therefor shall cause the application to lapse.

140 (5) One copy of a certificate issued under this section shall be filed in the office of the  
 141 state engineer and the other shall be delivered to the appropriator or to the person making the  
 142 change who shall, within 30 days, cause the same to be recorded in the office of the county  
 143 recorder of the county in which the water is diverted from the natural stream or source.

144 (6) The certificate issued and filed under this section is prima facie evidence of the  
 145 owner's right to the use of the water in the quantity, for the purpose, at the place, and during the  
 146 time specified therein, subject to prior rights.

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**H.B. 34 - Water Storage Projects**

**Fiscal Note**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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