

1 WATER LAW MODIFICATIONS

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Margaret Dayton

5 House Sponsor: Patrick Painter

6 

---

---

  
7 LONG TITLE

8 General Description:

9 This bill addresses the filing of a certificate of appropriation of water.

10 Highlighted Provisions:

11 This bill:

- 12 ▶ makes the filing of a certificate of appropriation of water with the county recorder
- 13 permissive, rather than mandatory; and
- 14 ▶ makes technical changes.

15 Money Appropriated in this Bill:

16 None

17 Other Special Clauses:

18 None

19 Utah Code Sections Affected:

20 AMENDS:

21 73-3-17, as last amended by Laws of Utah 2010, Chapter 108

22 

---

---

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

24 Section 1. Section 73-3-17 is amended to read:

25 **73-3-17. Certificate of appropriation -- Evidence.**

26 (1) Upon [~~it being made to appear to~~] the satisfaction of the state engineer that an  
27 appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed  
28 time change authorized by Section 73-3-30 has been perfected in accordance with the  
29 application, and that the water appropriated or affected by the change has been put to a

30 beneficial use, as required by Section 73-3-16 or 73-3-30, the state engineer shall issue a  
31 certificate, in duplicate, setting forth:

- 32 (a) the name and post-office address of the person by whom the water is used;
- 33 (b) the quantity of water in acre-feet or the flow in second-feet appropriated;
- 34 (c) the purpose for which the water is used;
- 35 (d) the time during which the water is to be used each year;
- 36 (e) the name of the stream or water source:
  - 37 (i) from which the water is diverted; or
  - 38 (ii) within which an instream flow is maintained;
- 39 (f) the date of the appropriation or change; and
- 40 (g) other information that defines the extent and conditions of actual application of the  
41 water to a beneficial use.

42 (2) A certificate issued on an application for one of the following types of projects need  
43 show no more than the facts shown in the proof submitted under Section 73-3-16:

44 (a) ~~[projects]~~ a project constructed according to Title 73, Chapter 10, Board of Water  
45 Resources - Division of Water Resources;

46 (b) a federal ~~[projects]~~ project constructed by the United States Bureau of Reclamation,  
47 referred to in Section 73-3-16; and

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

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

52 (4) Failure to file proof of appropriation or proof of change of the water on or before  
53 the date set therefor ~~[shall cause]~~ causes the application to lapse.

54 (5) One copy of a certificate issued under this section shall be filed in the office of the  
55 state engineer and the other shall be delivered to the appropriator or to the person making the  
56 change who ~~[shall, within 30 days, cause the same to be recorded]~~ may record the certificate in  
57 the office of the county recorder of the county in which the water is diverted from the natural

58 stream or source.

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