| WATER LAW MODIFICATIONS |
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| 2011 GENERAL SESSION |
| STATE OF UTAH |
| Chief Sponsor: Margaret Dayton |
| House Sponsor: Patrick Painter |
| LONG TITLE |
| Committee Note: |
| The Natural Resources, Agriculture, and Environment Interim Committee |
| recommended this bill. |
| General Description: |
| This bill addresses the filing of a certificate of appropriation of water. |
| Highlighted Provisions: |
| This bill: |
| makes the filing of a certificate of appropriation of water with the county recorder |
| permissive, rather than mandatory; and |
| makes technical changes. |
| Money Appropriated in this Bill: |
| None |
| Other Special Clauses: |
| None |
| Utah Code Sections Affected: |
| AMENDS: |
| 73-3-17, as last amended by Laws of Utah 2010, Chapter 108 |

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| 28 | 73-3-17. Certificate of appropriation Evidence. |
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| 29 | (1) Upon [it being made to appear to] the satisfaction of the state engineer that an |
| 30 | appropriation, a permanent change of point of diversion, place or purpose of use, or a fixed |
| 31 | time change authorized by Section 73-3-30 has been perfected in accordance with the |
| 32 | application, and that the water appropriated or affected by the change has been put to a |
| 33 | beneficial use, as required by Section 73-3-16 or 73-3-30, the state engineer shall issue a |
| 34 | certificate, in duplicate, setting forth: |
| 35 | (a) the name and post-office address of the person by whom the water is used; |
| 36 | (b) the quantity of water in acre-feet or the flow in second-feet appropriated; |
| 37 | (c) the purpose for which the water is used; |
| 38 | (d) the time during which the water is to be used each year; |
| 39 | (e) the name of the stream or water source: |
| 40 | (i) from which the water is diverted; or |
| 41 | (ii) within which an instream flow is maintained; |
| 42 | (f) the date of the appropriation or change; and |
| 43 | (g) other information that defines the extent and conditions of actual application of the |
| 44 | water to a beneficial use. |
| 45 | (2) A certificate issued on an application for one of the following types of projects need |
| 46 | show no more than the facts shown in the proof submitted under Section 73-3-16: |
| 47 | (a) [projects] a project constructed according to Title 73, Chapter 10, Board of Water |
| 48 | Resources - Division of Water Resources; |
| 49 | (b) <u>a</u> federal [projects] project constructed by the United States Bureau of Reclamation, |
| 50 | referred to in Section 73-3-16; and |
| 51 | (c) a surface water storage facility in excess of 1,000 acre-feet constructed by a public |
| 52 | water supplier. |
| 53 | (3) A certificate under this section does not extend the rights described in the |
| 54 | application. |
| 55 | (4) Failure to file proof of appropriation or proof of change of the water on or before |
| 56 | the date set therefor [shall cause] causes the application to lapse. |
| 57 | (5) One copy of a certificate issued under this section shall be filed in the office of the |
| 58 | state engineer and the other shall be delivered to the appropriator or to the person making the |
| | |

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- 59 change who [shall, within 30 days, cause the same to be recorded] may record the certificate in
- 60 the office of the county recorder of the county in which the water is diverted from the natural
- 61 stream or source.
- 62 (6) The certificate issued [and filed] under this section is prima facie evidence of the
- 63 owner's right to [the use of] use the water in the quantity, for the purpose, at the place, and
- 64 during the time specified therein, subject to prior rights.

Legislative Review Note as of 11-17-10 12:36 PM

Office of Legislative Research and General Counsel