

1 **WATER RIGHTS ADJUDICATION AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael L. Kohler**

5 Senate Sponsor: David P. Hinkins

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to the process for adjudicating water rights.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ in an action for an adjudication of water rights, allows the state engineer to serve a
13 claimant with a request for additional information;

14 ▶ if a claimant who is served with a request for additional information fails to
15 respond, allows the state engineer to make a recommendation to the court based on
16 the engineer's existing knowledge, which may include recommending a
17 disallowance of the claimant's claim;

18 ▶ allows the state engineer to seek an interlocutory judgment on water rights for
19 which no contest is filed; and

20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 73-4-5, as last amended by Laws of Utah 2018, Chapter 298



28 73-4-12, as last amended by Laws of Utah 2016, Chapter 72

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

31 Section 1. Section 73-4-5 is amended to read:

32 **73-4-5. Requirements for statement of claim in general adjudication of water
33 rights.**

34 (1) Except as provided in Subsection (2), each person claiming a right to use water of a
35 river system or water source shall, within 90 days after the day on which notice of the time to
36 file statements of claim as described in Section 73-4-3 is served, file with the state engineer or
37 the district court a written or electronic statement of claim, signed, and verified under oath, by
38 the claimant, or by unsworn declaration as described in Title 78B, Chapter 18a, Uniform
39 Unsworn Declarations Act, that includes:

40 (a) the name and address of the claimant;

41 (b) the nature and measure of beneficial use on which the claim is based;

42 (c) the maximum flow of water used in cubic feet per second, the maximum volume of
43 water used in acre-feet, or the quantity of water stored in acre-feet, as applicable;

44 (d) the period of time during which the water is used each year;

45 (e) the period of time during which the water is stored each year, if applicable;

46 (f) the name of the stream or other source from which the water is diverted, the point
47 on the stream or source where the water is diverted, and a description of the nature of the
48 diverting works;

49 (g) the water right number associated with the claimed right or, if not of record in the
50 state engineer's office, evidence sufficient to enable the state engineer to evaluate the basis of
51 the claimed right, including the information listed in Subsections 73-5-13(2)(a) and (c);

52 (h) the claimed priority date;

53 (i) the place and manner of current use; and

54 (j) other facts that clearly define the extent, limits, and nature of the claim, or that are
55 required by the written or electronic form provided by the state engineer with the notice of the
56 time to file statements of claim.

57 (2) (a) The state engineer may serve on a claimant, by mail, a request for additional
58 information supporting the elements of the claimant's claim.

59 (b) A claimant shall serve the state engineer with a written response within 30 days
60 after the day on which the state engineer serves the request for additional information, unless
61 the state engineer and the claimant agree in writing to extend the time to respond.

62 (c) A request for additional information described in Subsection (2)(a) shall contain a
63 notice advising the claimant that:

64 (i) the claimant has 30 days to respond to the request for additional information; and
65 (ii) failure to timely provide the information requested by the state engineer may result
66 in the state engineer making a recommendation to the court, based on the state engineer's
67 knowledge of the claim at the time the state engineer makes the recommendation, which may
68 be a recommendation that the court disallow the claimant's claim.

69 (d) If a claimant does not timely respond to a notice of request for additional
70 information, the state engineer may make, in the proposed determination, a recommendation on
71 the claimant's claim that is based on the information available to the state engineer at the time
72 of the proposed determination, which may be a recommendation that the court disallow the
73 claimant's claim.

74 [~~(2)~~] (3) A person claiming a right to the use of water, as described in Subsection (1):

75 (a) may request an extension of time as described in Section 73-4-10; and

76 (b) shall file the statement described in Subsection (1) on or before the granted

77 extension date, if an extension is granted pursuant to Section 73-4-10.

78 Section 2. Section 73-4-12 is amended to read:

79 **73-4-12. Judgment -- In absence of contest.**

80 (1) If no contest on the part of any claimant shall have been filed, the court shall render
81 a judgment in accordance with such proposed determination, which shall:

82 [~~(1)~~] (a) determine and establish the rights to the use of the water of said river system
83 or water source; and

84 [~~(2)~~] (b) set forth:

85 [~~(a)~~] (i) the name of the person entitled to the use of the water;

86 [~~(b)~~] (ii) the quantity of water in acre-feet or the flow of water in second-feet;

87 [~~(c)~~] (iii) the time during which the water is to be used each year;

88 [~~(d)~~] (iv) the name of the stream or other source from which the water is diverted;

89 [~~(e)~~] (v) the point on the stream or other source where the water is diverted;

90 [~~(f)~~] (vi) the priority date of the right; and
91 [~~(g)~~] (vii) any other matters as will fully and completely define the rights of said
92 claimants to the use of the water.

93 (2) (a) The state engineer may seek an interlocutory judgment from the court on the
94 rights to the use of water described in the proposed determination to which no contest or
95 objection is filed.

96 (b) An interlocutory judgment entered by the court is binding on the state engineer and
97 each claimant until a final judgment is entered under Section 73-4-15.