

28 **73-3-17. Certificate of appropriation -- Evidence.**

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) a 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

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