

**PROPOSED REGULATION OF THE
DIVISION OF WATER RESOURCES OF THE DEPARTMENT
OF CONSERVATION AND NATURAL RESOURCES
LCB FILE NO. R169-20I**

**The following document is the initial draft regulation proposed
by the agency submitted on 11/12/2020**

Sec 61 Standing

1 In proceedings for the hearing of objections to a preliminary order of determination in an adjudication, objectors as defined in Section 7, and the claimant whose claim is being objected, shall have standing

2 There is no provision for intervention of interested parties to respond to an objection filed with the State Engineer

Sec 62 Hearing of objections

1 At a hearing of objections, the State Engineer may permit the questioning of those persons testifying in order to clarify testimony

2 Persons who are not claimants but who want to express general support or opposition to a particular objection may make public comment.

EXTENSIONS OF TIME TO PERFECT AN APPROPRIATION

Sec 63 Contents of an application for extension of time to file proof of completion of work or proof of beneficial use to perfect an appropriation

1 An application for extension of time filed pursuant to NRS 533 380(3) shall be made on the form prescribed by the Office of the State Engineer

2 An application for extension of time shall include the following

(a) Whether there have been any prior applications, including the number of prior applications and number of years granted by each prior application, from the adoption date of this regulation

(b) The number of years requested by the application and a detailed explanation as to why the period of time is being requested,

(c) A summary of the work performed since the issuance of the permit to perfect the appropriation,

(d) If a prior application to extend time to perfect an appropriation has been granted, a detailed explanation of the work actually performed during the prior extension period with evidence of work, which may include receipts, photographs, construction plans and other evidence of reasonable diligence in the construction of work or to apply water to beneficial use in the permitted place of use

(e) A detailed explanation of the work expected to be performed during the requested period sought for the extension of time to perfect the appropriation

(f) Any information on any significant action that has occurred toward perfecting the appropriation, and

(g) Any other documents not previously identified justifying the requested extension of time to perfect the appropriation.

3 An application for extension of time to perfect an appropriation is for a municipal or quasi-municipal manner of use, must also meet the requirements set forth in NRS 533 380(4)

4 The State Engineer may request additional information and documentation in support of an application to extend time to perfect an appropriation if the State Engineer determines that such additional information and documentation is necessary to consider the application

Sec 64 Criteria for review and approval or denial of an application for extension of time to perfect an appropriation

1 In reviewing an application for extension of time to perfect an appropriation, in addition to the criteria set forth in NRS 533 380(4), the State Engineer shall consider, without limitation, the following factors

(a) The number of prior applications for extension of time, from the adoption date of this regulation

(b) An evaluation of the applicant's consistent measurable effort to perfect the appropriation, including

(1) Whether the applicant has consistently performed the steps stated in the prior applications to move the project toward completion and to perfect the appropriation,

(2) Whether significant actions have occurred demonstrating the applicant's good faith and reasonable diligence to perfect the appropriation,

(3) Whether the applicant has provided evidence of the good faith to perfect the appropriation, and,

(4) An explanation by the applicant for the failure to perfect the appropriation as set forth in a prior application

(c) The number of years sought in the current application to perfect the appropriation,

(d) Whether the applicant has made a demonstration of good faith and reasonable diligence in the construction of works and significant actions made in completing all elements of the project necessary to place the water to a beneficial use,

(e) Whether the hydrographic basin in which the water right permit is issued has been designated a critical management area and whether there is an approved groundwater management plan,

(f) Whether the applicant is subject to an order of the State Engineer, and,

(g) Any other factor that the State Engineer deems relevant in the consideration as to whether the applicant is proceeding in good faith and reasonable diligence to perfect the water right justifying the need for an extension of time

2 In considering an application for extension of time, the State Engineer may request additional information and evidence from the applicant if it is deemed necessary to gain a full understanding of the good faith efforts made by the applicant to perfect the appropriation

Sec 65 Protests on an Application for Extension of Time

1 Protests to an application for an extension of time will be rejected.

STATE WATER RIGHT SURVEYOR LICENSES

Water Right Surveyor Certificate

Sec 66 Qualifications of applicant, application for certificate.

1 An applicant for a state water right surveyor certificate must

(a) Be at least 18 years of age,

(b) Be a licensed professional engineer or land surveyor pursuant to NRS 625, and,

(c) Submit an application and the fee prescribed in NRS 533 080(2)

2 An application for a state water right surveyor must be submitted to the Office of the State Engineer in person or by mail. The application