

RCW 90.40.030 Notice and certificate, effect of. Whenever the secretary of the interior of the United States, or any officer of the United States duly authorized, shall notify the commissioner of public lands of this state that pursuant to the provisions of the act of congress approved June 17, 1902, entitled, "An act appropriating the receipts from the sale and disposal of public lands in certain states and territories to the construction of irrigation works for the reclamation of arid lands," or any amendment of said act or substitute therefor, the United States intends to make examinations or surveys for the utilization of certain specified waters, the waters so described shall not thereafter be subject to appropriation under any law of this state for a period of one year from and after the date of the receipt of such notice by such commissioner of public lands; but such notice shall not in any wise affect the appropriation of any water theretofore in good faith initiated under any law of this state, but such appropriation may be completed in accordance with the law in the same manner and to the same extent as though such notice had not been given. No adverse claim to any of such waters initiated subsequent to the receipt by the commissioner of public lands of such notice shall be recognized, under the laws of this state, except as to such amount of the waters described in such notice or certificate hereinafter provided as may be formally released in writing by a duly authorized officer of the United States. If the said secretary of the interior or other duly authorized officer of the United States shall, before the expiration of said period of one year, certify in writing to the said commissioner of public lands that the project contemplated in such notice appears to be feasible and that the investigation will be made in detail, the waters specified in such notice shall not be subject to appropriation under any law of this state for the further period of three years following the date of receipt of such certificate, and such further time as the commissioner of public lands may grant, upon application of the United States or some one of its authorized officers and notice thereof first published once in each week for four consecutive weeks in a newspaper published in the county where the works for the utilization of such waters are to be constructed, and if such works are to be in or extend into two or more counties, then for the same period in a newspaper in each of such counties: PROVIDED, That in case such certificate shall not be filed with said commissioner of public lands within the period of one year herein limited therefor the waters specified in such notice shall, after the expiration of said period of one year, become unaffected by such notice and subject to appropriation as they would have been had such notice never been given: AND PROVIDED FURTHER, That in case such certificate be filed within said one year and the United States does not authorize the construction of works for the utilization of such waters within said three years after the filing of said certificate, then the waters specified in such notice and certificate shall, after the expiration of said last named period of three years, become unaffected by such notice or certificate and subject to appropriation as they would have been had such notice never been given and such certificate never filed. [1905 c 88 s 3; RRS s 7410.]

Reviser's note: This section refers to the "commissioner of public lands" in several instances. Note that a later act, the 1917 Water Code, in section 27 (RCW 90.03.250) states in part:

"PROVIDED, FURTHER, That nothing in this act contained shall be deemed to affect chapter 88 of the Laws of 1905 except that the notice

and certificate therein provided for in section 3 thereof shall be addressed to the state hydraulic engineer after the passage of this act, and the state hydraulic engineer shall exercise the powers and perform the duties prescribed by said section 3."

Chapter 88, Laws of 1905 referred to in the above quotation is the instant chapter and "section 3" is the instant section. The language "this act" in the above quotation refers to the 1917 Water Code codified as chapter 90.03 RCW. The "state hydraulic engineer" referred to in the quotation has been changed throughout the remainder of this title because of the devolution of the powers and duties to "supervisor of water resources", see note following the title digest. Thus, the language "commissioner of public lands" is retained in the instant section and in RCW 90.40.050 and 90.40.060 because while some of the duties have been transferred to the hydraulic engineer thence to the supervisor of water resources not all of such duties prescribed in this chapter have so devolved.