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HOUSE BILL 109

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO WATER; PROVIDING FOR DIRECT APPEAL TO THE DISTRICT COURT OF CERTAIN DECISIONS OR ACTIONS BY THE STATE ENGINEER.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 72-2-16 NMSA 1978 (being Laws 1965, Chapter 285, Section 4, as amended) is amended to read:

"72-2-16. HEARINGS REQUIRED BEFORE APPEAL.--

A. The state engineer may order that a hearing be held before ~~[he]~~ the state engineer enters a decision, acts or refuses to act.

B. If, without holding a hearing, the state engineer enters a decision, acts or refuses to act on an application that has been protested, any person aggrieved by the decision, act or refusal to act is entitled to a hearing if a request for a hearing is made in writing within thirty days

underscored material = new
[bracketed material] = delete

underscoring material = new
~~[bracketed material] = delete~~

1 after receipt by certified mail of notice of the decision, act
2 or refusal to act. If, without holding a hearing, the state
3 engineer enters a decision or acts on an application that has
4 not been protested, any person aggrieved by the decision or
5 action of the state engineer may appeal the decision or action
6 directly to the district court pursuant to Section 72-7-1 NMSA
7 1978 or may request a hearing in writing within thirty days
8 after receipt by certified mail of notice of the decision or
9 action. An order by the state engineer to hold a hearing under
10 the provisions of Subsection A of this section does not
11 constitute a decision or action by the state engineer under
12 this subsection.

13 C. Hearings shall be held before the state engineer
14 or ~~[his]~~ the state engineer's appointed examiner. A record
15 shall be made of all hearings. ~~[No]~~ Except as provided for in
16 Subsection B of this section, an appeal shall not be taken to
17 the district court until the state engineer has held a hearing
18 and entered ~~[his]~~ a decision in the hearing."

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