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HOUSE BILL 84

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Nate Gentry

AN ACT

RELATING TO WATER; PROVIDING FOR DIRECT APPEAL TO THE DISTRICT COURT FOR 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

underscoring 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, the applicant, if aggrieved by the decision
5 or action of the state engineer, may appeal the decision or
6 action directly to the district court pursuant to Section
7 72-7-1 NMSA 1978 or may request a hearing in writing within
8 thirty days after receipt by certified mail of notice of the
9 decision or action. An order by the state engineer to hold a
10 hearing under the provisions of Subsection A of this section or
11 the state engineer's referral of the matter to mediation or
12 alternative dispute resolution does not constitute a decision
13 or action by the state engineer under this subsection.

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