

1 **WATER RIGHTS - INFORMAL**

2 **ADJUDICATIONS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Kay L. McIff**

6 Senate Sponsor: Ralph Okerlund

7

8 **LONG TITLE**

9 **Committee Note:**

10 The Natural Resources, Agriculture, and Environment Interim Committee
11 recommended this bill.

12 **General Description:**

13 This bill amends a section relating to the judicial review of a state engineer's decision in
14 an informal adjudication.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ allows the court to consider failure to prosecute a suit to final judgment within a
18 certain time period lack of diligence, rather than requiring the court to dismiss the
19 action; and

20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **73-3-15**, as last amended by Laws of Utah 1992, Chapter 127

H.B. 19



28

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **73-3-15** is amended to read:

31 **73-3-15. Dismissal of action for review of informal adjudicative proceedings.**

32 (1) An action to review a decision of the state engineer from an informal adjudicative
33 proceeding may be dismissed upon the application of any of the parties upon the grounds
34 provided in [~~Rule 41 of the~~] Utah Rules of Civil Procedure, Rule 41 for:

35 (a) the dismissal of actions generally; and [~~for~~]

36 (b) failure to prosecute [~~such~~] the action with diligence.

37 (2) [~~(a)~~] For the purpose of this section, failure to prosecute a suit to [~~final judgment~~]
38 trial within two years after it is filed[, or, if an appeal is taken from a district court judgment
39 ~~within three years after the filing of the suit, constitutes]~~ gives rise to a rebuttable presumption
40 of a lack of diligence.

41 [~~(b) A court shall dismiss those suits after ten days' notice by regular mail to the~~
42 ~~plaintiff.~~]

43 (3) In evaluating the rebuttable presumption, the court shall consider the totality of the
44 circumstances.

Legislative Review Note
as of 9-18-08 5:09 PM

Office of Legislative Research and General Counsel

H.B. 19 - Water Rights - Informal Adjudications

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
