

CHAPTER 85

WATER AND IRRIGATION

HOUSE BILL 09-1185

BY REPRESENTATIVE(S) Tipton, Gardner C., Hullinghorst, Kerr J., King S., Labuda, Looper, McNulty, Nikkel, Priola, Sonnenberg, Stephens, Waller; also SENATOR(S) Isgar, Hodge, Penry, Tapia.

AN ACT

CONCERNING REQUIREMENTS FOR DOCUMENTS RELATED TO WATER RIGHTS APPLICATIONS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 37-92-302 (1) (a), (1) (b), and (4), Colorado Revised Statutes, are amended, and the said 37-92-302 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

37-92-302. Applications for water rights or changes of such rights - plans for augmentation. (1) (a) Any person who desires a determination of a water right or a conditional water right and the amount and priority thereof, including a determination that a conditional water right has become a water right by reason of the completion of the appropriation, a determination with respect to a change of a water right, approval of a plan for augmentation, finding of reasonable diligence, approval of a proposed or existing exchange of water under section 37-80-120 or 37-83-104, or approval to use water outside the state pursuant to section 37-81-101 shall file with the water clerk ~~in quadruplicate~~ a verified application setting forth facts supporting the ruling sought, a copy of which shall be sent by the water clerk to the state engineer and the division engineer. The term "determination of a water right or conditional water right" includes any plan or change in plan under the provisions of section 37-45-118 (1) (b) (II) ~~which~~ THAT is or has been incorporated into a decree.

(b) Any person, including the state engineer, who wishes to oppose the application may file with the water clerk ~~in quadruplicate~~ a verified statement of opposition setting forth facts as to why the application should not be granted or why it should be granted only in part or on certain conditions. ~~Such~~ THE statement of opposition may be filed on behalf of all owners of water rights who by affixing their

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

signatures to ~~such~~ THE statement of opposition, in person or by attorney, consent to being included in ~~such~~ THE statement and who may be detrimentally affected by granting of the application. The water clerk shall ~~mail~~ SEND a copy of ~~such~~ THE statement of opposition to the state engineer and the division engineer.

(4) The referee, without conducting a formal hearing, shall make such investigations as are necessary to determine whether or not the statements in the application and statements of opposition are true and to become fully advised with respect to the subject matter of the applications and statements of opposition. The referee shall consult with the appropriate division engineer or the state engineer or both. The engineer consulted shall file a report in writing within thirty days, unless such time is extended by the referee, which original report shall be filed in the proceedings, and a copy shall be ~~mailed~~ SEND by the division engineer to the applicant or ~~his~~ THE APPLICANT'S attorney, who shall then ~~mail or deliver~~ SEND copies to all parties of record IF THEY HAVE NOT OTHERWISE BEEN SERVED and so certify before any ruling shall be entered or become effective. A water judge who is acting as a referee in ~~his~~ THE WATER JUDGE'S division shall have the same authority as provided for the referee in this subsection (4). If the application is rereferred to the water judge by the referee prior to consultation, the division engineer shall file a written recommendation in the proceedings within thirty days of rereferral, unless such time is extended by the court, and shall ~~mail or deliver~~ SEND a copy thereof to the applicant or ~~his~~ THE APPLICANT'S attorney, who shall ~~mail or deliver~~ SEND copies to the other parties, IF THEY HAVE NOT OTHERWISE BEEN SERVED, before any decree shall be entered or become effective. The water judge may request such written report from the state engineer if ~~he~~ THE WATER JUDGE desires.

(6) THE GENERAL ASSEMBLY HEREBY RECOGNIZES THE AUTHORITY OF THE COLORADO SUPREME COURT TO ADOPT RULES FOR FILING AND SERVICE OF DOCUMENTS AND OTHER CASE MANAGEMENT PROCEDURES IN WATER COURT PROCEEDINGS. ANY SUCH RULES THAT ARE ADOPTED SHALL SUPPLEMENT THE PROCEDURES SET FORTH IN THIS SECTION.

SECTION 2. Effective date. This act shall take effect July 1, 2009.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 2, 2009