

37-90-137. Permits to construct wells outside designated basins - fees - permit no ground water right - evidence - time limitation - well permits - repeal.

Statute text

(2) (b) (I) If the state engineer finds that there is unappropriated water available for withdrawal by the proposed well and that the vested water rights of others will not be materially injured, and can be substantiated by hydrological and geological facts, the state engineer shall issue a permit to construct a well, but not otherwise; except that no permit shall be issued if the THE PROPOSED WELL will be WITHIN 600 FEET OF THE SURFACE LOCATION OF AN EXISTING WELL AND THE PROPOSED WELL WILL BE COMPLETED IN A PRODUCING INTERVAL THAT, IN THE JUDGMENT OF THE STATE ENGINEER, IS IN DIRECT HYDRAULIC COMMUNICATION WITH THE PRODUCING INTERVAL OF THE EXISTING WELL.

~~except that no permit shall be issued unless the CLOSEST location WITHIN THE PRODUCING INTERVAL of the proposed well will be at a HORIZONTAL distance of more than six hundred feet from an ALL existing WATER PRODUCTION wells COMPLETED IN AN INTERVAL THAT IS IN DIRECT HYDRAULIC COMMUNICATION WITH THE PRODUCING INTERVAL OF THE PROPOSED WELL, but if the state engineer, after a hearing, finds that circumstances in a particular instance so warrant, or if a court decree is entered for the proposed well location after notice has been given in accordance with subparagraph (II) of this paragraph (b), the state engineer may issue a permit without regard to the limitation specified in this subsection (2).~~

(II) (A) If the state engineer notifies the owners of all wells within six hundred feet of the proposed well by certified mail and receives no response within the time set forth in the notice, no hearing shall be required.

(B) If the proposed well is part of a water court proceeding adjudicating the water right for the well, or if the proposed well is part of an adjudication of a plan for augmentation or change of water right, no hearing by the state engineer shall be required if evidence is provided to the water court that the applicant has given notice of the water court application, at least ten days before making the application, by registered or certified mail, return receipt requested, to the owners of record of all wells within six hundred feet of the proposed well.

(III) The hearing requirement shall not apply to wells located less than six hundred feet from existing wells if the proposed well will serve an individual residential site and the proposed pumping rate will not exceed fifteen gallons per minute.