

# DISCUSSION DRAFT

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

(1) An action to review a decision of the state engineer from an informal adjudicative proceeding may be dismissed upon the application of any of the parties upon the grounds provided in Utah Rules of Civil Procedure, Rule 41, for dismissal of actions generally and for failure to prosecute such action with diligence.

(2)(a) For the purpose of this section a plaintiff shall:

(i) notify the court of § 73-3-15 in the complaint; and,

(ii) in a timely and diligent manner prosecute the matter to trial within two years after the action is filed, unless the parties stipulate to and the court for good cause approves an extension of time beyond the two years within which to complete the trial.

(b) A plaintiff's failure to comply with (2)(a)(i) or (ii) constitutes a rebuttable presumption of lack of diligence, and the action shall be dismissed under Rule 41 upon the motion of any party unless in its discretion and upon a review of the totality of the circumstances, the district court determines the lack of diligence was based upon circumstances reasonably beyond plaintiff's control.