

**46-2,112 Permit to appropriate water for instream flows; hearing; when; notice; director; powers.**

A permit to appropriate water for instream flows shall be subject to review every fifteen years after it is granted. Notice of a pending review shall be published in a newspaper published or of general circulation in the area involved at least once each week for three consecutive weeks, the last publication to be not later than fourteen years and ten months after the permit was granted or after the date of the director's action following the last such review, whichever is later, and such notice shall be mailed to the appropriator of record and posted on the department's web site. The notice shall state that any interested person may file comments relating to the review of the instream appropriation or may request a hearing to present evidence relevant to such review. Any such comments or request for hearing shall be filed in the headquarters office of the department within six weeks after the date of final publication of the notice. The appropriator of record shall, within the six-week period, file written documentation of the continued use of the appropriation. If no requests for hearing are received and if the director is satisfied with the information provided by the appropriator of record that the appropriation continues to be beneficially used and is in the public interest, the director shall issue an order stating such findings. If requested by any interested person, or on his or her own motion based on the comments and information filed, the director shall schedule a hearing. If a hearing is held, the purpose of the hearing shall be to receive evidence regarding whether the water appropriated under the permit still provides the beneficial uses for which the permit was granted and whether the permit is still in the public interest. The hearing shall proceed under the rebuttable presumption that the appropriation continues to provide the beneficial uses for which the permit was granted and that the appropriation is in the public interest. After the hearing, the director may by order modify or cancel, in whole or in part, the instream appropriation.

**Source:** Laws 1997, LB 877, § 2; Laws 2000, LB 900, § 144; Laws 2004, LB 962, § 28; Laws 2006, LB 1226, § 13.  
Operative date: July 14, 2006.