

(3) NOTWITHSTANDING THE OTHER PROVISIONS OF THIS SUBSECTION, THE PERMITTEE AND THE PROPERTY OWNER MAY AGREE ON MONETARY COMPENSATION OR OTHER MITIGATION IN LIEU OF RESTORATION.

(F) THE DEPARTMENT MAY NOT REQUIRE A PERMITTEE TO REPLACE WATER SUPPLIES ~~OR REPAIR OR COMPENSATE FOR PROPERTY DAMAGE~~, AS PROVIDED IN THIS SECTION, IF THE PERMITTEE DEMONSTRATES TO THE DEPARTMENT BY CLEAR AND CONVINCING EVIDENCE THAT THE PROXIMATE CAUSE OF THE LOSS OF WATER SUPPLY ~~OR PROPERTY DAMAGE~~ IS NOT THE RESULT OF PIT DEWATERING.

(G) (1) A PERMITTEE OR AN AFFECTED PROPERTY OWNER WHO IS AGGRIEVED BY A DETERMINATION OF THE DEPARTMENT UNDER THIS SECTION MAY REQUEST A CONTESTED CASE HEARING.

(2) THE REQUEST FOR A CONTESTED CASE HEARING SHALL BE MADE IN WRITING WITHIN 14 CALENDAR DAYS FOLLOWING NOTICE OF THE DEPARTMENT'S DETERMINATION.

(3) UPON WRITTEN MOTION BY A PARTY TO A CONTESTED CASE HEARING, THE DEPARTMENT MAY GRANT A TEMPORARY STAY OF THE DEPARTMENT'S DETERMINATION, PENDING A FINAL DECISION IN THE CONTESTED CASE, IF:

(I) THE PARTIES TO THE PROCEEDING HAVE BEEN NOTIFIED AND GIVEN AN OPPORTUNITY TO BE HEARD ON A REQUEST FOR THE TEMPORARY STAY;

(II) THE PERSON REQUESTING THE TEMPORARY STAY SHOWS THAT THERE IS A SUBSTANTIAL LIKELIHOOD OF PREVAILING ON THE MERITS OF THE FINAL DETERMINATION OF THE CONTESTED CASE PROCEEDING;

(III) THE TEMPORARY STAY WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH OR SAFETY OR CAUSE SIGNIFICANT IMMINENT ENVIRONMENTAL HARM TO NATURAL RESOURCES; AND

(IV) THE CONDITIONS AND CRITERIA FOR GRANTING A TEMPORARY STAY AS PROVIDED IN REGULATIONS FOR CONTESTED CASE HEARINGS ADOPTED BY THE DEPARTMENT HAVE BEEN MET.

~~(G)~~ (H) THE DEPARTMENT SHALL ADOPT REGULATIONS TO ESTABLISH AN ADMINISTRATIVE PROCESS TO EXPEDITE THE RESOLUTION OF WATER SUPPLY LOSS OR PROPERTY DAMAGE CLAIMS ARISING UNDER THIS SECTION.

~~(H)~~ (I) COMPENSATION, RESTORATION, OR MITIGATION PROVIDED BY THIS SECTION DOES NOT APPLY TO: