

AN ACT

RELATING TO WATER; PROVIDING FOR PERMITTING OF DOMESTIC WELLS,
LIVESTOCK WELLS AND TEMPORARY WELLS.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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Section 1. Section 72-12-1 NMSA 1978 (being Laws 1931, Chapter 131,
Section 1, as amended) is amended to read:

"72-12-1. UNDERGROUND WATERS DECLARED TO BE PUBLIC--
APPLICATIONS FOR LIVESTOCK WATERING, DOMESTIC AND TEMPORARY USES
OF WATER.--The water of underground streams, channels, artesian basins, reservoirs
or lakes, having reasonably ascertainable boundaries, is declared to belong to the
public and is subject to appropriation for beneficial use. By reason of the varying
amounts and time such water is used and the relatively small amounts of water
consumed in the watering of livestock; in irrigation of not to exceed one acre of
noncommercial trees, lawn or garden; in household or other domestic use; and in
prospecting, mining or construction of public works, highways and roads or drilling
operations designed to discover or develop the natural resources of the state,
application for any such use shall be governed by the provisions of Sections 72-12-1.1
through 72-12-1.3 NMSA 1978."

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Section 2. A new Section 72-12-1.1 NMSA 1978 is enacted to read:

"72-12-1.1. UNDERGROUND WATERS--DOMESTIC USE--PERMIT.--A person,
firm or corporation desiring to use public underground waters described in this section
for irrigation of not to exceed one acre of noncommercial trees, lawn or garden or for
household or other domestic use shall make application to the state engineer for a well

on a form to be prescribed by the state engineer. Upon the filing of each application describing the use applied for, the state engineer shall issue a permit to the applicant to use the underground waters applied for; provided that permits for domestic water use within municipalities shall be conditioned to require the permittee to comply with all applicable municipal ordinances enacted pursuant to Chapter 3, Article 53 NMSA 1978."

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Section 3. A new Section 72-12-1.2 NMSA 1978 is enacted to read:

"72-12-1.2. UNDERGROUND PUBLIC WATERS--LIVESTOCK WELL

PERMITS.--A person, firm or corporation desiring to use public underground waters for watering livestock shall make an application to the state engineer on a form prescribed by the state engineer for a livestock well permit. Upon filing of the application, the state engineer shall issue a livestock well permit for the use of water for watering livestock to the applicant, provided that as part of an application for livestock watering use on state or federal land, the applicant submits proof that the applicant:

A. is legally entitled to place livestock on the state or federal land where the water is to be used; and

B. has been granted access to the drilling site and has permission to occupy the portion of the state or federal land as is necessary to drill and operate the well."

Section 4. A new Section 72-12-1.3 NMSA 1978 is enacted to read:

"72-12-1.3. UNDERGROUND PUBLIC WATERS--TEMPORARY

USES.--If a person, firm, corporation or the state desires to use underground public water in an amount not to exceed three acre-feet for a definite period of not to exceed one year in prospecting, mining or construction of public works, highways and roads or

drilling operations designed to discover or develop the natural mineral resources of the state, only the application referred to in Section 72-12-3 NMSA 1978 shall be required.

Separate application shall be made for each proposed use, whether in the same or in different basins. Upon the filing of an application, the state engineer shall make an examination of the facts and, if the proposed use will not permanently impair any existing rights of others, the state engineer shall grant the application. If the state engineer finds that the proposed use sought will permanently impair such rights, there shall be advertisement and hearing as provided in the case of applications made under

Section 72-12-3 NMSA 1978."