HOUSE BILL 1282

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Thomas A. Garcia

AN ACT

RELATING TO WATER; CHANGING PROVISIONS REGULATING THE IMPOUNDMENT OF WATER FOR LIVESTOCK.

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

Section 1. Section 72-9-3 NMSA 1978 (being Laws 1907, Chapter 49, Section 74, as amended) is amended to read:

"72-9-3. STOCK WATER. --

Any stockmen or stock owners desiring to impound any of the <u>public</u> surface waters of the state for watering of livestock shall [apply to the state engineer on a form prescribed by the state engineer. If the capacity of the proposed impoundment is ten acre-feet or less, the applicant shall meet the requirements of this section. If the capacity of the proposed impoundment exceeds ten acre-feet, the applicant shall] meet the requirements of filing applications .167989.1

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for the appropriation and use of water pursuant to Section

72-5-1, 72-5-22, 72-5-23 or 72-5-24 NMSA 1978, except as

provided in Subsection B of this section.

B. [Upon the filing of an application pursuant to

this section] If [the state engineer finds that] the capacity of the proposed impoundment of public surface water is ten acre-feet or less [will not be on a perennial stream] and there is no perennial or intermittent flow in the watercourse between the proposed impoundment and the nearest downstream surface water diversion, and if the proposed impoundment will be used for watering of livestock as defined in Subsection D of this section, [the state engineer shall issue a permit to the applicant to impound and use the waters applied for] the stockman or stock owner is exempt from the application and permit requirements; provided that [as part of an application] for an impoundment on state or federal land, the [applicant] stockman or stock owner submits proof to the state engineer that the [applicant] stockman or stock owner is legally entitled to place livestock on the state or federal land where the water is to be impounded and has been granted access to the site and has permission to occupy the portion of the state or federal land as is necessary for the impoundment.

C. This section shall only apply to impoundments constructed for the watering of livestock after [the effective date of this 2004 act] July 1, 2007.

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D. As used in this section, "livestock" means "livestock" as defined in Section 77-2-1.1 NMSA 1978 and this section applies only to the impoundment of surface water for the purpose of watering livestock. Watering of livestock does not include an impoundment of surface water or ground water in any amount for fishing, fish propagation, recreation or aesthetic purposes, which shall require a permit pursuant to Section 72-5-1 NMSA 1978. In determining whether an impoundment will be used for the watering of livestock, the state engineer may consider the maximum amount of water required per livestock unit and shall take into account regional and climatic conditions that affect consumption."

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2007.

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