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SENATE BILL 349

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

MICHAEL S. SANCHEZ

FOR THE WATER, UTILITIES AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; CONDITIONING A PERMIT FOR WATER USE ON  
PUBLIC LANDS TO REQUIRE PROOF OF RIGHT TO USE PUBLIC LANDS;  
AMENDING A SECTION OF THE NMSA 1978.

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

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 USE TO STATE ENGINEER--HEARINGS.--The water  
of underground streams, channels, artesian basins, reservoirs  
or lakes, having reasonably ascertainable boundaries, are  
[hereby] declared to be public waters and to belong to the  
public and to be 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

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1 watering of livestock, in irrigation of not to exceed one acre  
2 of noncommercial trees, lawn or garden, in household or other  
3 domestic use, and in prospecting, mining or construction of  
4 public works, highways and roads or drilling operations  
5 designed to discover or develop the natural resources of the  
6 state [~~of New Mexico~~], application for any such use shall be  
7 governed by the following provisions:

8           A. any person, firm or corporation desiring to use  
9 any [~~of the~~] public waters [~~described in this act~~] for  
10 watering livestock; for irrigation of not to exceed one acre  
11 of noncommercial trees, lawn or garden; or for household or  
12 other domestic use shall make application [~~or applications~~  
13 ~~from time to time~~] to the state engineer on a form to be  
14 prescribed by him. Upon the filing of each [~~such~~] application  
15 describing the use applied for, the state engineer shall issue  
16 a permit to the applicant to so use the waters applied for;  
17 provided that as part of an application for livestock watering  
18 use on public or United States forest service lands, the  
19 applicant shall submit proof that he:

20                           (1) is legally entitled to place his livestock  
21 on the public or United States forest service lands where the  
22 water is to be used; and

23                           (2) has been granted access to the drilling  
24 site and has permission to occupy the portion of the public or  
25 United States forest service lands as is necessary to drill

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and operate the well; and

B. [~~from time to time~~] whenever any person, firm or corporation or the state [~~of New Mexico~~] desires to use not to exceed three acre-feet of [~~the~~] public water [~~described in this act~~] 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 [~~of New Mexico~~], only the application [~~or applications~~] referred to in Section [~~75-11-3 New Mexico Statutes Annotated, 1953 Compilation~~] 72-12-3 NMSA 1978 shall be required. Separate application [~~must~~] shall be made for each proposed use, whether in the same or in different basins. Upon the filing of such applications, the state engineer shall make an examination of the facts and, if he finds that the proposed use will not permanently impair any existing rights of others, he shall grant the application. If he [~~shall find~~] finds that the proposed use sought will permanently impair such rights, then there shall be advertisement and hearing as provided in the case of applications made under Section [~~75-11-3 New Mexico Statutes Annotated, 1953 Compilation~~] 72-12-3 NMSA 1978. "

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 5, 1998  
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8 Mr. President:  
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10 Your COMMITTEES' COMMITTEE, to whom has been referred  
11

12 SENATE BILL 349  
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14 has had it under consideration and finds same to be GERMANE, in  
15 accordance with constitutional provisions, and thence referred to the  
16 CONSERVATION COMMITTEE.  
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19 Respectfully submitted,  
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25 \_\_\_\_\_  
Manny M. Aragon, Chairman

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~~[bracketed material]~~ = delete

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

S0349CC1

FORTY-THIRD LEGISLATURE

SB 349/a

SECOND SESSION, 1998

February 14, 1998

Mr. President:

Your CONSERVATION COMMITTEE, to whom has been referred

SENATE BILL 349

has had it under consideration and reports same with recommendation  
that it DO PASS, amended as follows:

1. On page 2, line 9, remove the brackets and line-through on "described in this act".
2. On page 2, line 9, strike "act" and insert in lieu thereof

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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SCONC/SB 349

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"section".

3. On page 2, line 18, strike "public or United States forest service lands" and insert in lieu thereof "state or federal land".

4. On page 2, line 21, strike "public or United States forest service lands" and insert in lieu thereof "state or federal land".

5. On page 2, lines 24 and 25, strike "public or United States forest service lands" and insert in lieu thereof "state or federal land".

6. On page 3, lines 4 and 5, remove the brackets and line-through on "described in this act".

7. On page 3, line 5, strike "act" and insert in lieu thereof "section".

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

SCONC/SB 349

Page 8

Respectfully submitted,

\_\_\_\_\_  
Michael S. Sanchez, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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No: None

Excused: Eisenstadt, Macias, Tsosie

Absent: None

S0349C01

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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 17, 1998  
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8 Mr. Speaker:  
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10 Your AGRICULTURE AND WATER RESOURCES COMMITTEE, to  
11 whom has been referred  
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13 SENATE BILL 349, as amended  
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15 has had it under consideration and reports same with  
16 recommendation that it DO PASS.

17 Respectfully submitted,  
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22 G. X. McSherry, Chairman  
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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

HAGC\SB 349

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 0 Against

Yes: 8

Excused: Garnenez

Absent: None

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FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

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February 19, 1998

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Mr. President:

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Your JUDICIARY COMMITTEE, to whom have been referred

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SENATE BILL 64, as amended

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SENATE BILL 349, as amended

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has had them under consideration and reports that same have been  
duly enrolled and engrossed preparatory to signing by the officers  
of the Senate.

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Respectfully submitted,

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Senator Dede Feldman, Co-Chairman

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Senator Cisco McSorley, Co-Chairman

FORTY-THIRD LEGISLATURE  
SECOND SESSION, 1998

1 HAGC\SB 349

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Senator William H. Payne, Co-Chairman

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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(Chief Clerk)

(Chief Clerk)

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Date \_\_\_\_\_

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