

HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO WATER; PROVIDING PROCEDURES FOR DRILLING
REPLACEMENT WELLS THAT ARE LESS THAN ONE HUNDRED FEET FROM THE
ORIGINAL WELL.

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

SECTION 1. Section 72-12-22 NMSA 1978 (being Laws 1959,
Chapter 41, Section 1) is amended to read:

"72-12-22. REPLACEMENT WELL WITHIN ONE HUNDRED FEET.--

A. Notwithstanding the provisions of Section
72-12-7 NMSA 1978, the owner of a water right may drill and use
a replacement well drilled within one hundred feet of the
original well ~~[prior to]~~ upon application to and the granting
of a permit by the state engineer ~~[and the publication and~~
~~hearing set out in Section 75-11-3 New Mexico Statutes~~
~~Annotated, 1953 Compilation]~~ if:

.190505.3

1 (1) the well is drilled into the same and only
2 the same underground stream, channel, artesian basin, reservoir
3 or lake as the original well; ~~[and]~~

4 (2) the appropriation is ~~[of]~~ for the same or
5 a lesser amount of water as is being put to beneficial use from
6 the well being replaced and no more than the amount allowed by
7 ~~[his]~~ the owner's water right in the original well; ~~[and]~~

8 ~~(3) an emergency situation exists in which the~~
9 ~~delay caused by application, publication and hearing would~~
10 ~~result in crop loss or other serious economic loss; and~~

11 ~~(4) he files application or notifies the state~~
12 ~~engineer office of these facts and the location of the proposed~~
13 ~~replacement well by registered letter, prior to drilling;~~
14 ~~provided that he shall file application for a permit within 30~~
15 ~~days after drilling begins.~~

16 ~~B. The owners of other water rights, who claim to~~
17 ~~be injured by the drilling of a replacement well under these~~
18 ~~circumstances, may not enjoin the drilling of such a well or~~
19 ~~the use of the water from the well, but are limited to an~~
20 ~~action at law to recover damages and to their right to protest~~
21 ~~the granting of a permit]~~

22 (3) the state engineer finds that the change
23 in location will not impair existing rights; and

24 (4) the original well is plugged, not capped.

25 B. If the applicant is aggrieved by the decision of

1 the state engineer, the applicant may request a hearing
2 pursuant to the provisions of Section 72-2-16 NMSA 1978;
3 provided that notice of application and the opportunity to
4 protest are given pursuant to Subsection D of Section 72-12-3
5 NMSA 1978."

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