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HOUSE BILL 976

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joe M Stell

AN ACT

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

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~~] LIVESTOCK
WATERING, DOMESTIC AND TEMPORARY USES OF WATER. --The water of
underground streams, channels, artesian basins, reservoirs or
lakes, having reasonably ascertainable boundaries, [~~are~~
~~declared to be public waters and to belong~~] belongs to the
public and [~~to be~~] 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

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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, application for any such use shall be governed by the
7 ~~[following]~~ provisions of Sections 72-12-1 through 72-12-1.2
8 NMSA 1978. ~~[A-]~~ A person, firm or corporation desiring to use
9 public waters described in this section ~~[for watering~~
10 ~~livestock]~~ for irrigation of not to exceed one acre of
11 noncommercial trees, lawn or garden or for household or other
12 domestic use shall make application to the state engineer on a
13 form to be prescribed by him. Upon the filing of each
14 application describing the use applied for, the state engineer
15 shall issue a permit to the applicant to ~~[so]~~ use the waters
16 applied for; provided that permits for domestic water use
17 within municipalities shall be conditioned to require the
18 permittee to comply with all applicable municipal ordinances
19 enacted pursuant to Chapter 3, Article 53 NMSA 1978. ~~[and~~
20 ~~provided that as part of an application for livestock watering~~
21 ~~use on state or federal land, the applicant shall submit proof~~
22 ~~that he:~~

23 (1) ~~is legally entitled to place his livestock~~
24 ~~on the state or federal land where the water is to be used; and~~

25 (2) ~~has been granted access to the drilling~~

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1 ~~site and has permission to occupy the portion of the state or~~
2 ~~federal land as is necessary to drill and operate the well; and~~

3 ~~B. Whenever a person, firm or corporation or the~~
4 ~~state desires to use not to exceed three acre-feet of public~~
5 ~~water described in this section for a definite period of not to~~
6 ~~exceed one year in prospecting, mining or construction of~~
7 ~~public works, highways and roads or drilling operations~~
8 ~~designed to discover or develop the natural mineral resources~~
9 ~~of the state, only the application referred to in~~
10 ~~Section 72-12-3 NMSA 1978 shall be required. Separate~~
11 ~~application shall be made for each proposed use, whether in the~~
12 ~~same or in different basins. Upon the filing of an~~
13 ~~application, the state engineer shall make an examination of~~
14 ~~the facts and, if he finds that the proposed use will not~~
15 ~~permanently impair any existing rights of others, he shall~~
16 ~~grant the application. If he finds that the proposed use~~
17 ~~sought will permanently impair such rights, then there shall be~~
18 ~~advertisement and hearing as provided in the case of~~
19 ~~applications made under Section 72-12-3 NMSA 1978.] "~~

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

22 "72-12-1.1. [NEW MATERIAL] UNDERGROUND PUBLIC WATERS--
23 LIVESTOCK WELL PERMITS.--A person, firm or corporation desiring
24 to use public underground waters for watering livestock shall
25 make an application to the state engineer on a form prescribed

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1 by the state engineer for a livestock well permit. Upon filing
2 of the application, the state engineer shall issue a livestock
3 well permit for the use of water for watering livestock to the
4 applicant, provided that as part of an application for
5 livestock watering use on state or federal land, the applicant
6 submits proof that the applicant:

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

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

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

14 "72-12-1.2. [NEW MATERIAL] UNDERGROUND PUBLIC WATERS--
15 TEMPORARY USES.--If a person, firm, corporation or the state
16 desires to use underground public water in an amount not to
17 exceed three acre-feet for a definite period of not to exceed
18 one year in prospecting, mining or construction of public
19 works, highways and roads or drilling operations designed to
20 discover or develop the natural mineral resources of the state,
21 only the application referred to in Section 72-12-3 NMSA 1978
22 shall be required. Separate application shall be made for each
23 proposed use, whether in the same or in different basins. Upon
24 the filing of an application, the state engineer shall make an
25 examination of the facts and, if the proposed use will not

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1 permanently impair any existing rights of others, the state
2 engineer shall grant the application. If the state engineer
3 finds that the proposed use sought will permanently impair such
4 rights, there shall be advertisement and hearing as provided in
5 the case of applications made under Section 72-12-3 NMSA 1978. "

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