

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 976

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

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

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 72-12-1.1 through 72-12-1.3
8 NMSA 1978. ~~[A.—A person, firm or corporation desiring to use~~
9 ~~public waters described in this section for watering livestock~~
10 ~~for irrigation of not to exceed one acre of noncommercial~~
11 ~~trees, lawn or garden or for household or other domestic use~~
12 ~~shall make application to the state engineer on a form to be~~
13 ~~prescribed by him.—Upon the filing of each application~~
14 ~~describing the use applied for, the state engineer shall issue~~
15 ~~a permit to the applicant to so use the waters applied for;~~
16 ~~provided that permits for domestic water use within~~
17 ~~municipalities shall be conditioned to require the permittee to~~
18 ~~comply with all applicable municipal ordinances enacted~~
19 ~~pursuant to Chapter 3, Article 53 NMSA 1978. and provided that~~
20 ~~as part of an application for livestock watering use on state~~
21 ~~or federal land, the applicant shall submit proof that he:~~
22 ~~(1) is legally entitled to place his livestock~~
23 ~~on the state or federal land where the water is to be used; and~~
24 ~~(2) has been granted access to the drilling~~
25 ~~site and has permission to occupy the portion of the state or~~

1 ~~federal land as is necessary to drill and operate the well; and~~

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

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

21 "72-12-1.1. [NEW MATERIAL] UNDERGROUND WATERS-- DOMESTIC
 22 USE-- PERMIT.-- A person, firm or corporation desiring to use
 23 public underground waters described in this section for
 24 irrigation of not to exceed one acre of noncommercial trees,
 25 lawn or garden or for household or other domestic use shall

. 146745. 1

1 make application to the state engineer for a well on a form to
2 be prescribed by the state engineer. Upon the filing of each
3 application describing the use applied for, the state engineer
4 shall issue a permit to the applicant:

5 A. to use the underground waters applied for
6 pursuant to regulations adopted by the office of the state
7 engineer that may condition the amount of water permitted for
8 use; and

9 B. provided that permits for domestic water use
10 within municipalities shall be conditioned to require the
11 permittee to comply with all applicable municipal ordinances
12 enacted pursuant to Chapter 3, Article 53 NMSA 1978. "

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

15 "72-12-1.2. [NEW MATERIAL] UNDERGROUND PUBLIC WATERS--
16 LIVESTOCK WELL PERMITS.--A person, firm or corporation desiring
17 to use public underground waters for watering livestock shall
18 make an application to the state engineer on a form prescribed
19 by the state engineer for a livestock well permit. Upon filing
20 of the application, the state engineer shall issue a livestock
21 well permit for the use of water for watering livestock to the
22 applicant, provided that as part of an application for
23 livestock watering use on state or federal land, the applicant
24 submits proof that the applicant:

25 A. is legally entitled to place livestock on the

1 state or federal land where the water is to be used; and

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

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

7 "72-12-1.3. [NEW MATERIAL] UNDERGROUND PUBLIC WATERS--
8 TEMPORARY USES.--If a person, firm, corporation or the state
9 desires to use underground public water in an amount not to
10 exceed three acre-feet for a definite period of not to exceed
11 one year in prospecting, mining or construction of public
12 works, highways and roads or drilling operations designed to
13 discover or develop the natural mineral resources of the state,
14 only the application referred to in Section 72-12-3 NMSA 1978
15 shall be required. Separate application shall be made for each
16 proposed use, whether in the same or in different basins. Upon
17 the filing of an application, the state engineer shall make an
18 examination of the facts and, if the proposed use will not
19 permanently impair any existing rights of others, the state
20 engineer shall grant the application. If the state engineer
21 finds that the proposed use sought will permanently impair such
22 rights, there shall be advertisement and hearing as provided in
23 the case of applications made under Section 72-12-3 NMSA 1978. "

underscored material = new
[bracketed material] = delete