

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 484

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

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO WATER; PROVIDING FOR THE MANAGEMENT OF DOMESTIC
WELLS; PROVIDING FOR A PENALTY.

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

underscored material = new
[bracketed material] = del ete

underscored material = new
[bracketed material] = delete

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.

9 ~~[A.—A person, firm or corporation desiring to use~~
10 ~~public waters described in this section for watering livestock,~~
11 ~~for irrigation of not to exceed one acre of noncommercial~~
12 ~~trees, lawn or garden or for household or other domestic use~~
13 ~~shall make application to the state engineer on a form to be~~
14 ~~prescribed by him.—Upon the filing of each 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 permits for domestic water use within~~
18 ~~municipalities shall be conditioned to require the permittee to~~
19 ~~comply with all applicable municipal ordinances enacted~~
20 ~~pursuant to Chapter 3, Article 53 NMSA 1978; and provided that~~
21 ~~as part of an application for livestock watering use on state~~
22 ~~or federal land, the applicant shall submit proof 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~~

. 142735. 2

underscored material = new
[bracketed material] = delete

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 DOMESTIC WELL PERMITS. --

24 A. As used in this section:

25 (1) "domestic well" means a household well or

underscored material = new
[bracketed material] = delete

1 shared household well;

2 (2) "household well" means a well used to
3 provide water for use inside a single family residence and for
4 use outside that residence for ordinary purposes related to the
5 enjoyment of the residence, including landscaping, lawn and
6 garden uses totaling no more than one acre in size; and

7 (3) "shared household well" means a well
8 shared by more than one single family residence for uses
9 allowed for a household well.

10 B. A person desiring to use the underground public
11 waters of the state for domestic purposes shall make an
12 application to the state engineer on a form prescribed by the
13 state engineer for a domestic well permit. Upon filing of the
14 application, the state engineer shall issue a domestic well
15 permit for the use of water for domestic purposes to the
16 applicant, provided that:

17 (1) permits for domestic water use within
18 municipalities shall be conditioned to require the permittee to
19 comply with all applicable municipal ordinances enacted
20 pursuant to Chapter 3, Article 53 NMSA 1978;

21 (2) a household well shall be limited to a
22 maximum water withdrawal of one acre-foot per year and only one
23 single family household may be served by the well. Except as
24 provided in Subsection D of this section, the permit holder
25 shall be required to install a meter and file periodic reports

. 142735. 2

underscored material = new
[bracketed material] = delete

1 of water use with the state engineer; and

2 (3) a shared household well shall be limited
3 to a maximum water withdrawal of three acre-feet per year,
4 regardless of the number of households sharing the well. The
5 permit holder shall be required to install a meter, and he or
6 his agent shall report to the state engineer those households
7 that are being served by the well along with periodic reports
8 of water use.

9 C. The state engineer shall adopt reporting
10 requirements, filing intervals and verification of usage
11 procedures for household wells and shared household wells.

12 D. Persons issued permits for single household uses
13 prior to July 1, 2003 shall be allowed to use an amount of
14 water not to exceed three acre-feet per year and shall not be
15 required to meter their wells, except as required by local or
16 county ordinance.

17 E. If the state engineer determines that a domestic
18 well is exceeding its permitted water usage, he shall assess
19 the permittee a fine of one thousand dollars (\$1,000) per acre-
20 foot or an alternate equivalent amount, plus any administrative
21 costs, for the amount in excess of permitted usage. A fine
22 shall be assessed in writing within twenty-four months of the
23 excess usage and if not paid, the state engineer may establish
24 a lien against all properties served or benefited by the well's
25 water at the time of excess usage. "

. 142735. 2

underscored material = new
[bracketed material] = delete

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

3 "72-12-1.2. [NEW MATERIAL] UNDERGROUND PUBLIC WATERS--
4 LIVESTOCK WELL PERMITS.--A person, firm or corporation desiring
5 to use public underground waters for watering livestock shall
6 make an application to the state engineer on a form prescribed
7 by the state engineer for a livestock well permit. Upon filing
8 of the application, the state engineer shall issue a livestock
9 well permit for the use of water for watering livestock to the
10 applicant, provided that as part of an application for
11 livestock watering use on state or federal land, the applicant
12 submits proof that the applicant:

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

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

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

20 "72-12-1.3. [NEW MATERIAL] UNDERGROUND PUBLIC WATERS--
21 TEMPORARY USES.--If a person, firm, corporation or the state
22 desires to use underground public water in an amount not to
23 exceed three acre-feet for a definite period of not to exceed
24 one year in prospecting, mining or construction of public
25 works, highways and roads or drilling operations designed to

. 142735. 2

underscored material = new
[bracketed material] = delete

1 discover or develop the natural mineral resources of the state,
2 only the application referred to in Section 72-12-3 NMSA 1978
3 shall be required. Separate application shall be made for each
4 proposed use, whether in the same or in different basins. Upon
5 the filing of an application, the state engineer shall make an
6 examination of the facts and, if he finds that the proposed
7 use will not permanently impair any existing rights of others,
8 he shall grant the application. If he finds that the proposed
9 use sought will permanently impair such rights, then there
10 shall be advertisement and hearing as provided in the case of
11 applications made under Section 72-12-3 NMSA 1978. "

12 Section 5. EFFECTIVE DATE. --The effective date of the
13 provisions of this act is July 1, 2003.

14 - 7 -
15
16
17
18
19
20
21
22
23
24
25