

HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 201

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

AN ACT

RELATING TO GEOTHERMAL RESOURCES; PROVIDING FOR GROUND WATER TO
QUALIFY AS A GEOTHERMAL RESOURCE.

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

SECTION 1. Section 71-5-2.1 NMSA 1978 (being Laws 2003,
Chapter 16, Section 2) is amended to read:

"71-5-2.1. EXCLUSION--INCIDENTAL LOSS OR EXTRACTION OF
HEAT--LIMITED EXCEPTION--

A. When the application of potable water to a
beneficial use involves the incidental loss or extraction of
heat, and the water is [250] two hundred fifty degrees
Fahrenheit or less, then that heat is not a geothermal resource
for which a royalty is due. In such a case, the use is not
governed by laws related to geothermal resources but is simply
governed by Chapter 72 NMSA 1978.

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1 B. A permit from the state engineer is not required
2 for the use of ground water over two hundred fifty degrees
3 Fahrenheit as incident to the development of geothermal
4 resources permitted pursuant to the Geothermal Resources
5 Construction Act when:

6 (1) the use does not require any diversion of
7 ground water; or

8 (2) all diverted ground water is reinjected
9 into the same ground water source from which it was diverted,
10 resulting in no new net depletions to the source.

11 C. No ground water right is established through the
12 use of ground water as allowed in Subsection B of this
13 section."

14 SECTION 2. A new section of the Geothermal Resources
15 Conservation Act is enacted to read:

16 "[NEW MATERIAL] WATER RIGHTS OWNER--ACTION FOR
17 IMPAIRMENT.--Any water rights owner may bring an action in the
18 district court of the county in which the water rights are
19 located for damages or injunctive relief with respect to any
20 claimed impairment of existing water rights due to the
21 development of geothermal resources pursuant to Subsection B of
22 Section 71-5-2.1 NMSA 1978."

23 SECTION 3. EFFECTIVE DATE.--The effective date of the
24 provisions of this act is July 1, 2012.

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