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**SENATE BILL 684**

**45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001**

**INTRODUCED BY**

**Sue Wilson**

**FOR THE WATER AND NATURAL RESOURCES COMMITTEE**

**AN ACT**

**RELATING TO WATER; PROVIDING AUTHORITY TO THE STATE ENGINEER  
TO ISSUE COMPLIANCE ORDERS AND OTHER ENFORCEMENT POWERS;  
PROVIDING A PENALTY.**

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

**Section 1. STATE ENGINEER-- ENFORCEMENT-- COMPLIANCE  
ORDERS-- PENALTY. --**

**A. When a person violates a requirement or  
prohibition of Chapter 72 NMSA 1978, a rule adopted by the  
state engineer pursuant to those laws, a condition of a permit  
or license issued by the state engineer pursuant to those laws  
or an order entered by a court adjudicating a water right, the  
state engineer may, in addition to any other remedies  
available under law:**

**(1) issue a compliance order stating with**

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1 reasonable specificity the nature of the violation and  
2 requiring compliance within a specified time period; or

3 (2) commence a civil action in district court  
4 for appropriate relief, including a temporary or permanent  
5 injunction.

6 B. This section shall not be construed to affect  
7 or interfere with the jurisdiction of a court or an Indian  
8 nation, tribe or pueblo to enforce its orders and decrees  
9 pertaining to water rights.

10 C. A compliance order may include a suspension or  
11 revocation of a permit or license or portion of a permit or  
12 license issued by the state engineer. A compliance order  
13 issued for overdiversion or illegal diversion of water may  
14 require repayment of water in an amount up to double the  
15 amount of the overdiversion or illegal diversion and  
16 installation of a measuring device prior to any future  
17 diversion of water. In determining the amount of repayment of  
18 water, the state engineer shall take into account the  
19 seriousness of the violation, any good faith efforts to comply  
20 with the applicable requirements and other relevant factors.

21 D. The state engineer shall not seek enforcement  
22 of a compliance order until the order becomes final. A  
23 compliance order shall be final unless the person named in the  
24 order:

25 (1) submits a written request no later than

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1 thirty days after the order is mailed by certified mail,  
2 return receipt requested, for a public hearing pursuant to  
3 Sections 72-2-16 and 72-2-17 NMSA 1978; or

4 (2) serves a notice of appeal upon the state  
5 engineer, in accordance with Section 72-7-1 NMSA 1978, within  
6 thirty days after receipt by certified mail, return receipt  
7 requested, of the order. Any appeal to district court shall  
8 be conducted pursuant to Chapter 72, Article 7 NMSA 1978.

9 E. The state engineer may assess a civil penalty  
10 of up to one hundred dollars (\$100) per day for violation of a  
11 final compliance order.