

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 684

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

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, issue a compliance order stating with reasonable

1 specificity the nature of the violation and requiring  
2 compliance within a specified time period.

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

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

18 D. The state engineer shall provide for the person  
19 named in the compliance order an opportunity to contest  
20 informally the alleged violation with the office of the state  
21 engineer and a public hearing pursuant to Sections 72-2-16 and  
22 72-2-17 NMSA 1978. If the person wants a public hearing, he  
23 shall submit a written request no later than thirty days after  
24 issuance of a compliance order by certified mail, return  
25

underscoring material = new  
[bracketed material] = delete

1 receipt requested, or serve a notice of appeal upon the state  
2 engineer, in accordance with Section 72-7-1 NMSA 1978, within  
3 thirty days after receipt of a compliance order. A compliance  
4 order is final upon action by the state engineer within thirty  
5 days after a public hearing or within thirty days of an appeal  
6 pursuant to Section 72-7-1 NMSA 1978.

7 E. The state engineer shall not seek enforcement of  
8 a compliance order until it is final. Any appeal to district  
9 court shall be conducted pursuant to Chapter 72, Article 7 NMSA  
10 1978.

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

14 G. If a final compliance order is issued and the  
15 person does not comply, the state engineer may file a civil  
16 action to enforce the compliance order and receive any of the  
17 remedies provided in this section, including injunctive relief.