

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

HOUSE BILL 834

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

INTRODUCED BY

Joe M Stell

AN ACT

**RELATING TO WATER; PROVIDING FOR CHANGE IN POINT OF DIVERSION
FOR APPROPRIATIONS.**

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

**Section 1. FINDINGS--PURPOSE--CHANGE OF POINT OF
DIVERSION.--**

A. The legislature finds that:

**(1) the entire watershed is the generating
source from which the water of a river comes or accumulates in
its channel;**

**(2) precipitation falling on the watershed
sinks into the soil and finds its way by surface or
underground flow or percolation through the sloping strata
down to the central channel;**

(3) the water of the watershed constitutes

1 the stream, and it does not cease to be such in its
2 centripetal movement to the channel;

3 (4) appropriators are entitled to the
4 underground waters or to the stream waters pursuant to their
5 appropriation and are entitled to a change of point of
6 diversion; provided that it does not impair other existing
7 rights;

8 (5) an application for a change in point of
9 diversion by an appropriator by means of wells is not an
10 application for a new appropriation in the underground water
11 basin, but merely a request to follow the source of the
12 original appropriation for restoration of appropriators'
13 water; and

14 (6) if a water source is the same and will
15 not impair existing rights, an application for a well permit
16 to restore the flow of water to an amount previously
17 appropriated is a change of place of diversion.

18 B. The purpose of this section is to ensure that:

19 (1) an appropriator of water from the central
20 channel is entitled to depend upon all the sources that feed
21 the main stream above his own diversion point, clear back to
22 the farthest limits of the watershed; and

23 (2) an appropriation follows the water to its
24 original source, and water appropriated from the natural flow
25 of a river includes waters in an underground water supply that

underscored material = new
[bracketed material] = delete

1 naturally reaches the river.

2 C. The state engineer shall approve an application
3 for a well permit as a change in the point of diversion of an
4 existing surface consumptive water right, not to exceed three
5 and one-half acre feet per acre of water rights, if the
6 natural flow of the stream includes the underground water
7 supply of the well.

8 - 3 -

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25