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HOUSE BILL 271

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Joe M Stell

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; ESTABLISHING CONDITIONS FOR PERMITS FOR THE
USE OF UNDERGROUND WATERS; AMENDING SECTION 72-12-1 NMSA 1978
(BEING LAWS 1931, CHAPTER 131, SECTION 1, AS AMENDED).

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.--

A. The water of underground streams, channels,
artesian basins, reservoirs or lakes, having reasonably
ascertainable boundaries, are declared to be public waters and
to belong to the public and to be subject to appropriation for
beneficial use.

B. By reason of the varying amounts and time such

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1 water is used and the relatively small amounts of water
2 consumed in the watering of livestock; [~~in irrigation of not~~
3 ~~to exceed one acre of noncommercial trees, lawn or garden~~] in
4 household or other domestic use that may include a residential
5 lawn or garden not to exceed one acre in size; and in
6 prospecting, mining or construction of public works, highways
7 and roads or drilling operations designed to discover or
8 develop the natural resources of the state, application for
9 any such use shall be governed by the following provisions:

10 [A.] (1) a person, firm or corporation
11 desiring to use public waters described in this section for
12 watering livestock [~~for irrigation of not to exceed one acre~~
13 ~~of noncommercial trees, lawn or garden~~] or for household or
14 other domestic use that may include a residential lawn or
15 garden not to exceed one acre in size shall make application
16 to the state engineer on a form to be prescribed by him;

17 (2) upon the filing of each application
18 describing the use applied for, the state engineer shall issue
19 a permit to the applicant to so use the waters applied for;
20 provided that permits for domestic water use within
21 municipalities shall be conditioned to require the permittee
22 to comply with all applicable municipal ordinances enacted
23 pursuant to Chapter 3, Article 53 NMSA 1978; and [~~provided~~
24 ~~that~~]

25 (3) as part of an application for livestock

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1 watering use on state or federal land, the applicant shall
2 submit proof that he:

3 ~~[(1)]~~ (a) is legally entitled to place
4 his livestock on the state or federal land where the water is
5 to be used; and

6 ~~[(2)]~~ (b) has been granted access to
7 the drilling site and has permission to occupy the portion of
8 the state or federal land as is necessary to drill and operate
9 the well. ~~[and~~

10 ~~B-~~ C. In those areas of the state where there
11 is no unappropriated water for appropriation and where use
12 of water may affect the state's obligations pursuant to an
13 interstate compact, the state engineer may:

14 (1) deny a permit for a new domestic well;

15 (2) issue a permit with a limit on the
16 amount of water allowed to be produced from the domestic
17 well; or

18 (3) issue a permit with the requirement
19 that a meter be installed and the permit holder file annual
20 records of water use with the state engineer.

21 D. Whenever a person, firm or corporation or the
22 state desires to use public water described in this section
23 in an amount not to exceed three acre-feet ~~[of public water~~
24 ~~described in this section]~~ for a definite period of not to
25 exceed one year in prospecting, mining or construction of

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

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