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HOUSE BILL 762

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO WATER; PROVIDING STATE ENGINEER JURISDICTION OVER CERTAIN NONPOTABLE UNDERGROUND AQUIFERS; DECLARING AN EMERGENCY.

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

Section 1. Section 72-12-25 NMSA 1978 (being Laws 1967, Chapter 86, Section 1) is repealed and a new Section 72-12-25 NMSA 1978 is enacted to read:

"72-12-25. [NEW MATERIAL] AQUIFER CONTAINING NONPOTABLE WATER AT A DEPTH OF TWO THOUSAND FIVE HUNDRED FEET OR MORE.--

A. An undeclared underground water basin having reasonably ascertainable boundaries that consists of water in an aquifer, the top of which aquifer is at a depth of two thousand five hundred feet or more below the ground surface at any location at which a well is drilled and which aquifer

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underscored material = new
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1 contains only nonpotable water, is subject to state engineer
2 administration in accordance with Sections 72-12-25 through
3 72-12-28 NMSA 1978.

4 B. If the state engineer declares the type of
5 underground water basin described in Subsection A of this
6 section, all appropriations of nonpotable water from that basin
7 for:

8 (1) oil and gas exploration and production,
9 prospecting, mining, road construction, agriculture, generation
10 of electricity, use in an industrial process or geothermal use
11 shall remain subject to Sections 72-12-25 through 72-12-28 NMSA
12 1978; and

13 (2) all other uses shall be subject to
14 Sections 72-12-1 through 72-12-24 NMSA 1978.

15 C. Regardless of whether the state engineer
16 declares a basin described in Subsection A of this section, no
17 element of a water right, other than the priority date of the
18 water right, shall vest for water put to beneficial use from a
19 well completed on or after March 21, 2009 for any use other
20 than those allowed in Paragraph (1) of Subsection B of this
21 section unless a permit is obtained pursuant to the procedures
22 provided for in Section 72-12-3 NMSA 1978.

23 D. "Nonpotable water", for the purposes of Sections
24 72-12-25 through 72-12-28 NMSA 1978, means water containing not
25 less than one thousand parts per million of dissolved solids."

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underscored material = new
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Section 2. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.

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