

AN ACT
RELATING TO WATER; CONDITIONING A PERMIT FOR WATER USE ON
PUBLIC LANDS TO REQUIRE PROOF OF RIGHT TO USE PUBLIC LANDS;
AMENDING A SECTION OF THE NMSA 1978.

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. --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. By reason of the varying amounts and time
such water is used and the relatively small amounts of water
consumed in the watering of livestock, in irrigation of not
to exceed one acre of noncommercial trees, lawn or garden,
in household or other domestic use, and in prospecting,
mining or construction of public works, highways and roads
or drilling operations designed to discover or develop the
natural resources of the state, application for any such use
shall be governed by the following provisions:

A. any person, firm or corporation desiring to
use any public waters described in this section for watering

livestock; for irrigation of not to exceed one acre of noncommercial trees, lawn or garden; or for household or other domestic use shall make application to the state engineer on a form to be prescribed by him. Upon the filing of each application describing the use applied for, the state engineer shall issue a permit to the applicant to so use the waters applied for; provided that as part of an application for livestock watering use on state or federal land, the applicant shall submit proof that he:

(1) is legally entitled to place his livestock on the state or federal land where the water is to be used; and

(2) has been granted access to the drilling site and has permission to occupy the portion of the state or federal land as is necessary to drill and operate the well; and

B. whenever any person, firm or corporation or the state desires to use not to exceed three acre-feet of public water described in this section for a definite period of not to exceed one year in prospecting, mining or construction of public works, highways and roads or drilling operations designed to discover or develop the natural mineral resources of the state, only the application referred to in Section 72-12-3 NMSA 1978 shall be required. Separate application shall be made for each proposed use,

whether in the same or in different basins. Upon the filing of such applications, the state engineer shall make an examination of the facts and, if he finds that the proposed use will not permanently impair any existing rights of others, he shall grant the application. If he finds that the proposed use sought will permanently impair such rights, then there shall be advertisement and hearing as provided in the case of applications made under Section 72-12-3 NMSA 1978. "
