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HOUSE BILL 383

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

JOE M STELL

FOR THE WATER, UTILITIES AND NATURAL RESOURCES COMMITTEE

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  
[hereby] 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

Underscored material = new  
[bracketed material] = delete

1 watering of livestock, in irrigation of not to exceed one acre  
2 of noncommercial trees, lawn or garden, in household or other  
3 domestic use, and in prospecting, mining or construction of  
4 public works, highways and roads or drilling operations  
5 designed to discover or develop the natural resources of the  
6 state [~~of New Mexico~~], application for any such use shall be  
7 governed by the following provisions:

8           A. any person, firm or corporation desiring to use  
9 any [~~of the~~] public waters [~~described in this act~~] for  
10 watering livestock; for irrigation of not to exceed one acre  
11 of noncommercial trees, lawn or garden; or for household or  
12 other domestic use shall make application [~~or applications~~  
13 ~~from time to time~~] to the state engineer on a form to be  
14 prescribed by him. Upon the filing of each [~~such~~] application  
15 describing the use applied for, the state engineer shall issue  
16 a permit to the applicant to so use the waters applied for;  
17 provided that as part of an application for livestock watering  
18 use on public or United States forest service lands, the  
19 applicant shall submit proof that he:

20                       (1) is legally entitled to place his livestock  
21 on the public or United States forest service lands where the  
22 water is to be used; and

23                       (2) has been granted access to the drilling  
24 site and has permission to occupy the portion of the public or  
25 United States forest service lands as is necessary to drill

Underscored material = new  
[bracketed material] = delete

1 and operate the well; and

2 B. [~~from time to time~~] whenever any person, firm  
3 or corporation or the state [~~of New Mexico~~] desires to use not  
4 to exceed three acre-feet of [~~the~~] public water [~~described in~~  
5 ~~this act~~] for a definite period of not to exceed one year in  
6 prospecting, mining or construction of public works, highways  
7 and roads or drilling operations designed to discover or  
8 develop the natural mineral resources of the state [~~of New~~  
9 ~~Mexico~~], only the application [~~or applications~~] referred to in  
10 Section [~~75-11-3 New Mexico Statutes Annotated, 1953~~  
11 ~~Compilation~~] 72-12-3 NMSA 1978 shall be required. Separate  
12 application [~~must~~] shall be made for each proposed use,  
13 whether in the same or in different basins. Upon the filing  
14 of such applications, the state engineer shall make an  
15 examination of the facts and, if he finds that the proposed  
16 use will not permanently impair any existing rights of others,  
17 he shall grant the application. If he [~~shall find~~] finds that  
18 the proposed use sought will permanently impair such rights,  
19 then there shall be advertisement and hearing as provided in  
20 the case of applications made under Section [~~75-11-3 New~~  
21 ~~Mexico Statutes Annotated, 1953 Compilation~~] 72-12-3 NMSA  
22 1978. "

1 FORTY-THIRD LEGISLATURE

2 SECOND SESSION, 1998

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5  
6 February 7, 1998

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8 Mr. Speaker:

9  
10 Your AGRICULTURE AND WATER RESOURCES COMMITTEE,  
11 to whom has been referred

12  
13 HOUSE BILL 383

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

17 1. On page 1, line 22, strike the brackets and line  
18 through.

19 2. On page 2, line 9, strike the brackets and line  
20 through.

21  
22 3. On page 3, line 4, strike the brackets and lines  
23 through and strike the underlined word.

24 4. On page 3, line 5, strike the line through and closing  
25 bracket. ,

. 120094. 3

Underscored material = new  
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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

3 HAGC\HB 383

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5 and thence referred to the JUDICIARY COMMITTEE.  
6

7 Respectfully submitted,  
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11 \_\_\_\_\_  
12 G. X. McSherry, Chairman  
13

14 Adopted \_\_\_\_\_  
15 (Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

16  
17 Date \_\_\_\_\_

18 The roll call vote was 6 For 0 Against

19 Yes: 6

20 Excused: Abeyta, Porter, Wright

21 Absent: None  
22  
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25