



Aubrey Dunn, State Land Commissioner
State of New Mexico

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State Land Commissioner sues State Engineer to stop unlawful water use

SANTA FE, NM – State Land Commissioner Aubrey Dunn late yesterday filed a petition in district court that seeks to prevent the State Engineer from issuing unlawful temporary water well permits.

The unlawful permits allow permittees to use two to three times more water than the three-acre-foot-per-year allowed under a temporary use statute.

“This practice is clearly in violation of the state statutes governing the State Engineer,” Commissioner Dunn said.

Commissioner Dunn filed the petition after letters to the State Engineer expressing his concerns about water scarcity went unanswered.

Statutes mandate that the State Engineer may issue temporary use permits for certain purposes, without public notice or hearing so long as the State Engineer determines that the proposed use will not permanently impair existing water rights. The statute exempts such permits from the usual permitting process because of “the varying amounts and time such water is used and the relatively small amounts of water consumed.”

Three acre-feet of water translates to nearly 1 million gallons.

Commissioner Dunn said he’s seeking to halt this practice that threatens to diminish the value and productive use of State Trust Lands, which often depends upon the use of water in accordance with established water rights not fully considered by the State Engineer when temporary permits are issued.

“This problem is particularly serious in the Southeastern portion of the state where we have millions of acres of Trust Lands,” Commissioner Dunn said. “For a \$15 filing fee, the State Engineer has been issuing permits to pump nine acre-feet of water at a time from one well, without public notice or a hearing. On the open market, nine acre-feet of water would sell for approximately \$143,000.

“As a result of the State Engineer’s actions, approximately 415,000,000 gallons of water have been unlawfully appropriated since 2010,” Dunn added. “There’s no excuse for this blatant misuse of power and loss of such a precious and finite resource.”

Oil, gas, and mineral production, ranching and farming, and commercial development on State Trust Lands support public schools, seven universities, New Mexico Military Institute, New Mexico School for the Deaf, New Mexico School for the Blind and Visually Impaired, three hospitals, correctional facilities, water conservation projects, and public building construction and repair. In fiscal year 2017, the State Land Office collected \$664 million from lease payments, oil and gas lease sale earnings, rights-of-way, permits, interest, fees, and oil, gas, and mineral royalties.