

Attachment A

New Mexico Forfeiture Law – 1907 N.M. Laws, ch. 49 § 42

Sec. 42. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, except the water for storage reservoirs, for a period of four years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

New Mexico Forfeiture Law – NMSA 1915, § 5701 (1897)

§ 5701. Abandonment—Failure to use water.

SEC. 48. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, except the water for storage reservoirs, for a period of four years, such unused water shall revert to the public and shall be regarded as unappropriated public water.

New Mexico Forfeiture Law – NMSA 1929, § 151-154 (1933) (1938 Supp.)

151-154. Abandonment—Failure to use water. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, except the water for storage reservoirs, for a period of four years, such unused water shall revert to the public and shall be regarded as unappropriated public water. [L. '07, Ch. 49, § 42; Code '15, § 5701.]

New Mexico Forfeiture Law – NMSA 1941, § 77-526 (1945) (1951 Pocket Supp.)

77-526. Failure to use water—Forfeiture.—When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, except the waters for storage reservoirs, for a period of four [4] years, such unused water shall revert to the public and shall be regarded as unappropriated public water; Provided, however, that forfeiture shall not necessarily occur if circumstances beyond the control of the owner have caused nonuse, such that the water could not be placed to beneficial use by diligent efforts of the owner. [Laws 1907, ch. 49, § 42; Code 1915, § 5701; C. S. 1929, § 151-154; Laws 1941, ch. 126, § 16, p. 206.]

New Mexico Forfeiture Law – NMSA 1957, § 75-5-26 (1957)

75-5-26. Failure to use water—Forfeiture.—When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, except the waters for storage reservoirs, for a period of four [4] years, such unused water shall revert to the public and shall be regarded as unappropriated public water; Provided, however, that forfeiture shall not necessarily occur if circumstances beyond the control of the owner have caused non-use, such that the water could not be placed to beneficial use by diligent efforts of the owner; and Provided that periods of non-use when irrigated farm lands are placed under the acreage reserve program or conservation program provided by the Soil Bank Act (Public Law 540, 84th Congress) shall not be computed as part of the four-year forfeiture period.

New Mexico Forfeiture Law – NMSA 1965, § 75-5-26 (1965)

75-5-26. Failure to use water—Forfeiture.—A. When the party entitled to the use of water fails to beneficially use all or any part of the water claimed by him, for which a right of use has vested, for the purpose for which it was appropriated or adjudicated, except the waters for storage reservoirs, for a period of four [4] years, such unused water shall, if the failure to beneficially use the water persists one [1] year after notice and declaration of nonuser given by the state engineer, revert to the public and shall be regarded as unappropriated public water; Provided, however, that forfeiture shall not necessarily occur if circumstances beyond the control of the owner have caused nonuse, such that the water could not be placed to beneficial use by diligent efforts of the owner; and Provided that periods of nonuse when irrigated farm lands are placed under the acreage reserve program or conservation program provided by the Soil Bank Act shall not be computed as part of the four-year forfeiture period. Provided further that the condition of notice and declaration of nonuser shall not apply to water which has reverted to the public by operation of law prior to June 1, 1965.

B. Upon application to the state engineer at any time and a proper showing of reasonable cause for delay or for nonuse, or upon the state engineer finding that it is in the public interest, the state engineer may grant extensions of time, not to exceed a term of one [1] year for each extension, in which to apply to beneficial use the water for which a permit to appropriate has been issued or a water right has vested, was appropriated or has been adjudicated.

C. Periods of nonuse when water rights are acquired by incorporated municipalities for implementation of their water development plans or for preservation of municipal water supplies shall not be computed as part of the four-year forfeiture statute.

D. A lawful exemption from the requirements of beneficial use, either by an extension of time or other statutory exemption, stops the running of the four-year period for the period of the exemption, and the period of exemption shall not be included in computing the four-year period.