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SENATE BILL 270

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO WATER; AMENDING A SECTION OF CHAPTER 72 NMSA 1978
TO PROVIDE FOR RULES CONSISTENT WITH ARTICLE 16 OF THE
CONSTITUTION OF NEW MEXICO AND THE DOCTRINE OF PRIOR
APPROPRIATION.

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

SECTION 1. Section 72-2-9.1 NMSA 1978 (being Laws 2003,
Chapter 63, Section 1) is amended to read:

"72-2-9.1. PRIORITY ADMINISTRATION--EXPEDITED WATER
MARKETING AND LEASING--STATE ENGINEER.--

A. The legislature recognizes that the adjudication
process is slow, the need for water administration is urgent,
compliance with interstate compacts is imperative and the state
engineer has authority to administer water allocations in
accordance with the water right priorities recorded with or

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1 declared or otherwise available to the state engineer.

2 B. The state engineer shall adopt rules for
3 priority administration to ensure that authority is exercised:

4 (1) so as not to interfere with a future or
5 pending adjudication;

6 (2) so as to create no impairment of water
7 rights, other than what is required to enforce [~~priorities~~]
8 Article 16 of the constitution of New Mexico and the doctrine
9 of prior appropriation; and

10 (3) so as to create no increased depletions.

11 C. The state engineer shall adopt rules based on
12 the appropriate hydrologic models to promote expedited
13 marketing and leasing of water in those areas affected by
14 priority administration. The rules shall be consistent with
15 Article 16 of the constitution of New Mexico and the doctrine
16 of prior appropriation and the rights, remedies and criteria
17 established by law for proceedings for water use leasing and
18 for changes in point of diversion, place of use and purpose of
19 use of water rights. The rules shall not apply to acequias or
20 community ditches or to water rights served by an acequia or
21 community ditch.

22 D. Nothing in this section shall affect the
23 partial final decree and settlement agreement as may be
24 entered in the Carlsbad irrigation district project offer
25 phase of *State of New Mexico ex rel. State Engineer v. Lewis,*

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et al., Nos. 20294 and 22600 (N.M. 5th Jud. Dist.)."