

**FORTY-SEVENTH LEGISLATURE
FIRST SESSION, 2005**

March 4, 2005

Mr. Speaker:

Your **ENERGY AND NATURAL RESOURCES COMMITTEE**, to whom has been referred

HOUSE BILL 889

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

1. On page 8, line 23, after "Act" insert ", the New Mexico Mining Act, the Surface Mining Act, the Oil and Gas Act, the Water Quality Act or any other law governing an environmental response project".

2. On page 8, between lines 23 and 24, insert the following new subsection:

"C. An agency shall not approve a servitude or other restriction on the use of ground water unless an environmental response project has been approved and the agency has determined that the environmental response project will achieve compliance with ground water standards adopted or alternative abatement standards approved pursuant to the Water Quality Act. For the purposes of this subsection, "ground water" means water below the land surface in a zone of saturation."

3. On page 13, between lines 17 and 18, insert the following new section:

"Section 12. FILE--SUBSTITUTE NOTICE.--

A. The department of environment shall establish and maintain a file that contains all environmental covenants and any amendment or termination of those covenants. The file may also contain any other information concerning environmental covenants and the real property subject to them that the department of environment considers appropriate. The file is a public record.

B. After an environmental covenant or an amendment or termination of a covenant is filed in the file established pursuant to Subsection A of this section, a notice of the covenant, amendment or termination that complies with this section may be recorded in the land records in lieu of recording the entire covenant. Any such notice shall contain the following:

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(1) a legally sufficient description and any available street address of the real property subject to the covenant;

(2) the name of the owner of the fee simple interest in the real property, the agency and the holder if other than the agency;

(3) a statement that the covenant, amendment or termination is available in a file at the department of environment and that discloses the method of any electronic access; and

(4) a statement that the notice is notification of an environmental covenant executed pursuant to the Uniform Environmental Covenants Act.

C. A statement in substantially the following form, executed with the same formalities as a deed in this state, satisfies the requirements of Subsection B of this section:

"1. This notice is filed in the land records of the county in which the real property is located pursuant to Section 12 of the Uniform Environmental Covenants Act.

2. This notice and the covenant, amendment or termination to which it refers may impose significant obligations with respect to the real property described below.

3. A legal description of the real property is attached as Exhibit A to this notice. The address of the real property that is subject to the environmental covenant is [insert address of real property][not available].

4. The name and address of the owner of the fee simple interest in the real property on the date of this notice is [insert name of current owner of the real property].

5. The environmental covenant, amendment or termination was signed by [insert name and address of agency].

6. The environmental covenant, amendment or termination was filed in the file on [insert date of filing].

7. The full text of the environmental covenant, amendment or termination and any other information required by the agency is on file and available for inspection and copying in the file maintained for that purpose by the department of environment at [insert address

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and room of building in which the file is maintained]. The environmental covenant, amendment or termination may be found electronically at [insert web address for covenant].".".

4. Renumber the succeeding sections accordingly.,
and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

James Roger Madalena, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

No: 0

Excused: Madalena

Absent: None

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