

AN ACT

RELATING TO WATER; AMENDING AND ENACTING SECTIONS OF CHAPTER 72 NMSA 1978 TO PROVIDE FOR AN ALTERNATIVE METHOD OF ACQUIRING WATER RIGHTS TO SATISFY THE PECOS RIVER SETTLEMENT; DECLARING AN EMERGENCY.

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

Section 1. A new section of Chapter 72, Article 1 NMSA 1978 is enacted to read:

"PECOS RIVER--PURCHASE OF ADDITIONAL WATER RIGHTS.--

A. In addition to the land with appurtenant water rights or rights to the delivery of water acquired pursuant to the provisions of Section 72-1-2.4 NMSA 1978, the interstate stream commission may expend funds for the purchase of water rights or rights to the delivery of water without acquiring the surface of the land to which the water rights or rights to the delivery of water are appurtenant. No such expenditure shall be made unless the commission has entered into contracts with the governing bodies of the Carlsbad irrigation district, the Pecos valley artesian conservancy district and the Fort Sumner irrigation district that specify the actions the parties agree will be taken or avoided to ensure that the expenditures will be effective toward permanent compliance with New Mexico's obligations under the Pecos River Compact pursuant to Section 72-15-19 NMSA 1978 and amended decree.

B. Expenditures for the purchase of water rights or rights to the delivery of water pursuant to this section shall be made only from willing sellers for projects that comply with the following criteria:

(1) the water rights or rights to the delivery of water are located within the Carlsbad irrigation district, the Roswell Artesian Basin, the Pecos valley artesian conservancy district or between the Acme gauge to and including the Fort Sumner irrigation district;

(2) the transactions through which the commission purchases the water rights or rights to the delivery of water are conducted in compliance with procedures set forth in Subsections F and G of Section 72-1-2.4 NMSA 1978, except that the resulting contracts shall not require the commission to purchase the land to which the water rights or rights to the delivery of water are appurtenant; and

(3) the purchase of water rights or rights to the delivery of water authorized by this section and the subsequent use of the land to which the rights are appurtenant comply with the provisions of Section 5D(1) and (2) of the settlement agreement dated March 25, 2003 entered in *State v. Lewis*; provided that the commission shall not be responsible for the establishment of cover vegetation or the ongoing maintenance of the land.

purchased by the commission pursuant to this section shall be included in the calculation of the ratio mandated by Section 72-1-2.4 NMSA 1978.

D. If the interstate stream commission determines that ownership of all or any part of the surface of land acquired by the commission pursuant to Section 72-1-2.4 NMSA 1978 is not necessary or desirable for permanent compliance with New Mexico's obligations under the Pecos River Compact pursuant to Section 72-15-19 NMSA 1978 and amended decree, the commission may offer the land for sale. The land may be offered for sale in the order in which it was acquired by sending a written offer to sell, by certified mail, to the party from whom the commission purchased the land at the party's last known address. The offer shall remain open for at least sixty days from the date of mailing. The offer shall include a notice that, if the offer is not accepted by the prior owner within the time stated pursuant to this section, the offer will be deemed rejected and automatically withdrawn and the land may be made available for purchase at the current market price by third parties. The revenue from the sale shall be deposited into the Pecos river basin land management fund.

E. If the interstate stream commission determines that the total water rights and the rights to the delivery of water purchased pursuant to Chapter 72, Article 1 NMSA 1978

are in excess of those rights permanently needed for New Mexico's obligations under the Pecos River Compact, the commission shall offer the excess water rights for sale in the manner set forth in Section 72-1-2.4 NMSA 1978."

Section 2. Section 72-1-2.5 NMSA 1978 (being Laws 2006, Chapter 77, Section 1) is amended to read:

"72-1-2.5. PECOS RIVER BASIN LAND MANAGEMENT FUND.--The "Pecos river basin land management fund" is created in the state treasury. The fund shall consist of appropriations, grants, donations or bequests to the fund, income from land and water rights purchased pursuant to Chapter 72, Article 1 NMSA 1978, revenue from land sold pursuant to Chapter 72, Article 1 NMSA 1978 and income from investment of the fund or money otherwise accruing to the fund. Money in the fund shall be invested pursuant to Chapter 6, Article 10 NMSA 1978. The interstate stream commission shall adopt rules for managing the land, for depositing revenues from the land and to administer the fund, and money in the fund is appropriated to the commission to manage the land purchases pursuant to Section 72-1-2.4 NMSA 1978 and to manage augmentation well fields in the lower Pecos river basin. Money in the fund shall not revert to any other fund at the end of a fiscal year. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the director of the interstate stream

commission or the director's authorized representative."

Section 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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