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SENATE BILL 227

**48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008**

INTRODUCED BY

Phil A. Griego

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; AMENDING AND ENACTING SECTIONS OF CHAPTER  
72, ARTICLE 1 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:

"[NEW MATERIAL] 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

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1 surface of the land to which the water rights or rights to the  
2 delivery of water are appurtenant. No such expenditure shall  
3 be made unless the commission has entered into contracts with  
4 the governing bodies of the Carlsbad irrigation district, the  
5 Pecos valley artesian conservancy district and the Fort Sumner  
6 irrigation district that specify the actions the parties agree  
7 will be taken or avoided to ensure that the expenditures will  
8 be effective toward permanent compliance with New Mexico's  
9 obligations under the Pecos River Compact pursuant to Section  
10 72-15-19 NMSA 1978 and the amended decree.

11 B. Expenditures for the purchase of water rights or  
12 rights to the delivery of water pursuant to this section shall  
13 be made only from willing sellers in accordance with the  
14 following criteria:

15 (1) the water rights or rights to the delivery  
16 of water are located within the Carlsbad irrigation district,  
17 the Roswell artesian basin, the Pecos valley artesian  
18 conservancy district or between the Acme gauge to and including  
19 the Fort Sumner irrigation district;

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

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1 delivery of water are appurtenant; and

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

10 C. Water rights or rights to the delivery of water  
11 purchased by the commission pursuant to this section shall be  
12 included in the calculation of the ratio mandated by Section  
13 72-1-2.4 NMSA 1978.

14 D. If the interstate stream commission determines  
15 that ownership of all or any part of the surface of land  
16 acquired by the commission pursuant to Section 72-1-2.4 NMSA  
17 1978 is not necessary or desirable, the commission may offer  
18 the land for sale. The land may be offered for sale by sending  
19 a written offer to sell, by certified mail, to the party from  
20 whom the commission purchased the land at the party's last  
21 known address. The offer shall remain open for at least sixty  
22 days from the date of mailing. The offer shall include a  
23 notice that, if the offer is not accepted by the prior owner  
24 within the time stated pursuant to this section, the offer will  
25 be deemed rejected and automatically withdrawn and the land may

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1 be made available for purchase by third parties in accordance  
2 with state law. The revenue from the sale shall be deposited  
3 into the Pecos river basin land management fund.

4 E. If the interstate stream commission determines  
5 that the total water rights and the rights to the delivery of  
6 water purchased pursuant to Chapter 72, Article 1 NMSA 1978 are  
7 in excess of those rights permanently needed for New Mexico's  
8 obligations under the Pecos River Compact, the commission shall  
9 offer the excess water rights for sale in the manner set forth  
10 in Section 72-1-2.4 NMSA 1978."

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

13 "72-1-2.5. PECOS RIVER BASIN LAND MANAGEMENT FUND.--The  
14 "Pecos river basin land management fund" is created in the  
15 state treasury. The fund shall consist of appropriations,  
16 grants, donations or bequests to the fund, [~~all revenues~~]  
17 income from land and water rights purchased pursuant to  
18 [~~Section 72-1-2.4 NMSA 1978~~] Chapter 72, Article 1 NMSA 1978,  
19 revenue from land sold pursuant to Chapter 72, Article 1 NMSA  
20 1978 and income from investment of the fund or money otherwise  
21 accruing to the fund. Money in the fund shall be invested  
22 pursuant to Chapter 6, Article 10 NMSA 1978. The interstate  
23 stream commission shall adopt rules for managing the land, for  
24 depositing revenues from the land and to administer the fund,  
25 and money in the fund is appropriated to the commission to

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1 manage the land purchases pursuant to Section 72-1-2.4 NMSA  
2 1978 and to manage augmentation well fields in the lower Pecos  
3 river basin. Money in the fund shall not revert to any other  
4 fund at the end of a fiscal year. Money in the fund shall be  
5 disbursed on warrants signed by the secretary of finance and  
6 administration pursuant to vouchers signed by the director of  
7 the interstate stream commission or the director's authorized  
8 representative."

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