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SENATE BILL 440

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO WATER; PROVIDING FOR THE INTERSTATE STREAM
COMMISSION TO ACQUIRE, RETIRE, PROTECT AND CONSERVE WATER
RIGHTS AND CONSERVE WATER IN THE LOWER RIO GRANDE BASIN; MAKING
AN APPROPRIATION.

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

SECTION 1. LOWER RIO GRANDE--WATER RIGHTS ACQUISITION,
RETIREMENT, PROTECTION AND CONSERVATION.--

A. The legislature finds that:

(1) a severe imbalance exists among water
rights holders reliant on Rio Grande water supply, New Mexico
obligations under the Rio Grande Compact, demands on water
supplied upstream of the lower Rio Grande project and water
supply made available to the lower Rio Grande basin of New
Mexico;

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1 (2) the imbalance is threatening the economic
2 well-being of the state and the area comprising the lower Rio
3 Grande basin and is causing significant economic losses and
4 undue hardship for all residents in the basin;

5 (3) although priority administration remains
6 the law of New Mexico, the state engineer has concluded that
7 priority administration is only a last resort; and

8 (4) a mechanism needs to be in place to protect
9 water rights, retire water rights and conserve water so that a
10 balance will be restored between water uses statewide and water
11 supplied to the lower Rio Grande basin.

12 B. The interstate stream commission shall enter
13 into contracts with the governing body of the Elephant Butte
14 irrigation district that specify the actions to be taken or
15 avoided by each party to ensure that the expenditure of the
16 money appropriated in Section 2 of this act by the commission
17 will be effective toward compliance with New Mexico's
18 obligations under the Rio Grande Compact, the Rio Grande
19 project and water rights that are senior and entitled to
20 protection under the constitution of New Mexico.

21 C. The interstate stream commission, after
22 consultation with the governing board of the Elephant Butte
23 irrigation district, the lower Rio Grande water users
24 organization and other water managers and water rights holders
25 in the lower Rio Grande basin, shall determine the need for

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1 projects to be funded. Expenditures shall be made only for
2 projects that:

3 (1) augment or import water into the lower Rio
4 Grande basin;

5 (2) improve efficiencies in the delivery of
6 Rio Grande project water;

7 (3) purchase, lease or otherwise acquire water
8 rights from willing sellers and, if appropriate, appurtenant
9 land;

10 (4) protect water rights, retire water rights
11 or include other measures designed to correct the imbalances
12 among water rights holders, senior water rights, New Mexico
13 obligations under the Rio Grande Compact and water actually
14 supplied to the lower Rio Grande basin; or

15 (5) promote water conservation, including
16 restoration of native vegetation and other water supply
17 enhancement measures.

18 D. If, at any time, the interstate stream
19 commission determines that the total water rights purchased
20 pursuant to this section are in excess of those water rights
21 permanently needed for compliance with priority administration,
22 senior water rights and New Mexico's obligations under the Rio
23 Grande Compact, then the commission shall offer the excess
24 water rights for sale to the private sector. By rule, the
25 commission shall establish procedures for the sale, and any

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1 revenue received as a result of the sale shall be deposited in
2 the New Mexico irrigation works construction fund.

3 SECTION 2. APPROPRIATION.--One hundred twenty million
4 dollars (\$120,000,000) is appropriated from the general fund to
5 the interstate stream commission for expenditure in fiscal year
6 2014 and subsequent fiscal years to acquire, retire, protect
7 and conserve water rights and conserve water in the lower Rio
8 Grande basin. Any unexpended or unencumbered balance remaining
9 at the end of a fiscal year shall not revert to the general
10 fund.