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HOUSE BILL 174

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Tomás E. Salazar

AN ACT

RELATING TO WATER; DIRECTING THE OFFICE OF THE STATE ENGINEER TO COMPLETE ALL PREPARATIONS FOR PRIORITY ADMINISTRATION IN THE LOWER AND MIDDLE RIO GRANDE BASINS; DIRECTING THE INTERSTATE STREAM COMMISSION TO UNDERTAKE WATER PLANNING; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of Chapter 72, Article 2 NMSA 1978 is enacted to read:

"[NEW MATERIAL] ACTIVE WATER MANAGEMENT--LOWER RIO GRANDE--MIDDLE RIO GRANDE--STATE ENGINEER--INTERSTATE STREAM COMMISSION--DUTIES.--

A. In accordance with the rules promulgated pursuant to Section 72-2-9.1 NMSA 1978 to implement priority administration, the state engineer shall:

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1 (1) declare water master districts pursuant to
2 Section 72-3-1 NMSA 1978 in the lower Rio Grande and the middle
3 Rio Grande;

4 (2) require owners of all water diversions
5 within the lower Rio Grande and middle Rio Grande declared
6 water master districts to accurately measure all diversions of
7 water on a continuous basis and report the measurement results
8 annually or more frequently pursuant to state engineer
9 promulgated rules that shall encourage digital reporting;

10 (3) adopt rules necessary for priority
11 administration of water rights within and throughout the lower
12 Rio Grande and middle Rio Grande declared water master
13 districts in order to take into account the unique facts and
14 science of water flows within the declared water master
15 districts and the history of state water development pursuant
16 to state water rights;

17 (4) using the best available information,
18 create and publish a list of all water rights by priority in
19 the declared lower Rio Grande and middle Rio Grande water
20 master districts; and

21 (5) in full cooperation with the interstate
22 stream commission, adopt rules based on appropriate hydrologic
23 models to promote expedited marketing and leasing of water in
24 the declared lower Rio Grande and middle Rio Grande water
25 master districts in accordance with Section 72-2-9.1 NMSA 1978.

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1 B. The requirements of Subsection A of this section
2 shall be completed by the state engineer no later than:

3 (1) December 31, 2021 in the lower Rio Grande;
4 and

5 (2) December 31, 2022 in the middle Rio
6 Grande.

7 C. Upon completion of the requirements of
8 Subsection A of this section and prior to December 21, 2024,
9 the state engineer shall determine an administration date to
10 separate more senior water rights that will remain in priority
11 from more junior water rights that will be out of priority
12 pursuant to priority administration in the lower Rio Grande and
13 the middle Rio Grande. Upon commencement of priority
14 administration by the state engineer, water rights junior to
15 the administration date shall not be exercised except pursuant
16 to a water banking or expedited marketing or leasing
17 transaction that is approved by the state engineer.

18 D. The interstate stream commission shall undertake
19 water planning activities in the lower Rio Grande and the
20 middle Rio Grande to facilitate and encourage the development
21 of alternative approaches to achieve interstate river compact
22 compliance, including through water banking and expedited water
23 marketing and leasing. The interstate stream commission's
24 water planning conclusions and recommendations shall be
25 finalized and transmitted to the state engineer and the interim

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1 legislative committee that addresses water issues and published
2 to the interstate stream commission's website by no later than
3 December 31, 2021 for the lower Rio Grande and December 31,
4 2022 for the middle Rio Grande.

5 E. For the purposes of this section:

6 (1) "lower Rio Grande" means the geographic
7 area tributary to the Rio Grande through surface water or
8 groundwater connections in New Mexico downstream of Elephant
9 Butte dam; and

10 (2) "middle Rio Grande" means the geographic
11 area tributary to the Rio Grande through surface water or
12 groundwater connections between the Otowi gage and Elephant
13 Butte dam."

14 SECTION 2. APPROPRIATION.--

15 A. Two million dollars (\$2,000,000) is appropriated
16 from the general fund to the office of the state engineer for
17 expenditure in fiscal years 2020 through 2022 to complete all
18 preparations for priority administration in the lower Rio
19 Grande in accordance with this 2019 act. Any unexpended or
20 unencumbered balance remaining at the end of fiscal year 2022
21 shall revert to the general fund.

22 B. Two million dollars (\$2,000,000) is appropriated
23 from the general fund to the office of the state engineer for
24 expenditure in fiscal years 2020 through 2023 to complete all
25 preparations for priority administration in the middle Rio

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1 Grande in accordance with this 2019 act. Any unexpended or
2 unencumbered balance remaining at the end of fiscal year 2023
3 shall revert to the general fund.

4 C. Three million dollars (\$3,000,000) is
5 appropriated from the general fund to the interstate stream
6 commission for expenditure in fiscal years 2020 through 2025 to
7 implement Subsections A and D of Section 1 of this 2019 act.
8 Any unexpended or unencumbered balance remaining at the end of
9 fiscal year 2025 shall revert to the general fund.