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SENATE MEMORIAL 65

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Crystal R. Diamond and Joseph Cervantes

A MEMORIAL

IDENTIFYING THE SERIOUSNESS OF MIDDLE RIO GRANDE COMPACT ADMINISTRATION IN RELATION TO THE RIO GRANDE COMPACT AND REQUESTING THE STATE ENGINEER AND THE INTERSTATE STREAM COMMISSION TO EXERCISE THEIR AUTHORITIES AND TO CLOSELY COORDINATE THEIR EFFORTS TO ADMINISTER THE COMPACT IN EQUITABLE PARTNERSHIP WITH WATER RIGHTS OWNERS AND IMPACTED LOCAL COMMUNITIES.

WHEREAS, the Rio Grande Compact requires that New Mexico deliver a certain amount of water each year to Elephant Butte reservoir; and

WHEREAS, New Mexico has a Rio Grande Compact debit obligation with a risk of costly litigation; and

WHEREAS, the annual water delivery quantity requirement to Elephant Butte reservoir depends largely on the annual inflow

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1 to the middle Rio Grande at the Otowi gage; and

2 WHEREAS, year-end water delivery credits and debits are
3 accrued from year to year; and

4 WHEREAS, accrued water debits exceeding two hundred
5 thousand acre-feet are a violation of the Rio Grande Compact;
6 and

7 WHEREAS, violations of the Rio Grande Compact frequently
8 elicit expensive interstate lawsuits; and

9 WHEREAS, recently, consumptive uses of water in the middle
10 Rio Grande region have been sufficiently large that New Mexico
11 has moved from an accrued water delivery credit of sixty-two
12 thousand four hundred acre-feet at the end of 2013 to an
13 accrued water delivery debit of one hundred twenty-seven
14 thousand acre-feet at the end of 2021; and

15 WHEREAS, urgent action is needed because New Mexico's
16 accrued water delivery debits have been rapidly approaching the
17 violation threshold; and

18 WHEREAS, consumptive uses of water within the middle Rio
19 Grande region could be reduced to avoid a Rio Grande Compact
20 violation; and

21 WHEREAS, the consumptive uses of water in the region
22 consist of human uses that can be coordinated in part by the
23 state engineer in equitable partnership with rights owners and
24 impacted local communities, mainly through active water
25 resource management and natural and riparian uses that can be

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1 coordinated in part by federal, tribal and local land and water
2 rights owners and water management agencies in conjunction with
3 the interstate stream commission, mainly through river channel
4 management and voluntary consumption reductions incentivized by
5 equitable compensation; and

6 WHEREAS, close coordination between the state engineer and
7 the interstate stream commission in the coordination of
8 consumptive uses to meet Rio Grande Compact obligations is
9 imperative; and

10 WHEREAS, ongoing integrated water resource planning and
11 management is vital to ensure the future economic, ecological
12 and cultural well-being of New Mexico and the state's local
13 communities; and

14 WHEREAS, precedent exists for voluntary, equitable and
15 compensatory agreements for water use reductions between the
16 state engineer, the interstate stream commission and individual
17 water rights owners in order to meet interstate compact
18 requirements; and

19 WHEREAS, one model of such a precedent is the agreement
20 dated March 25, 2003 between the state engineer, interstate
21 stream commission and Fort Sumner irrigation district;

22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
23 OF NEW MEXICO that the importance of wise water management and
24 administration to meet Rio Grande Compact obligations be
25 affirmed, while noting that a lack of capacity in state

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1 agencies has hampered the ability of the state agencies to
2 fulfill the agencies' potential; and

3 BE IT FURTHER RESOLVED that compliance with the water
4 delivery obligations of interstate stream compacts be
5 considered of paramount importance to the public welfare of the
6 state; and

7 BE IT FURTHER RESOLVED that, subject only to the exemption
8 of Indian rights and uses of water, the state engineer, in
9 coordination with the interstate stream commission, water
10 rights owners and local communities, be requested to administer
11 water rights to ensure that New Mexico reliably complies with
12 the Rio Grande Compact's water delivery obligations; and

13 BE IT FURTHER RESOLVED that the state engineer and the
14 interstate stream commission be requested to provide incentives
15 for participation and convene, fund and sponsor an inclusive
16 and transparent collaborative process to develop a negotiated
17 and voluntary water shortage sharing agreement based on
18 equitable compensation among all significant water rights and
19 water permit holders that meets the criteria for a priority
20 administration plan set forth in rules promulgated by the state
21 engineer pursuant to Section 72-2-9.1 NMSA 1978; and

22 BE IT FURTHER RESOLVED that copies of this memorial be
23 transmitted to the office of the governor, the interstate
24 stream commission, the office of the state engineer, the middle
25 Rio Grande conservancy district and the Albuquerque-Bernalillo

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county water utility authority.

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