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HOUSE BILL 302

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ben Lujan

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; PROVIDING WATER BANKING AUTHORITY TO
ACEQUIAS AND COMMUNITY DITCHES.

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

Section 1. [NEW MATERIAL] WATER BANKING--ACEQUIAS AND
COMMUNITY DITCHES. --An acequia or community ditch may establish
a water bank for the purpose of temporarily reallocating water
without change of purpose of use or point of diversion to
augment the water supplies available for the places of use
served by the acequia or community ditch. The acequia or
community ditch water bank may make temporary transfers of
place of use without formal proceedings before the state
engineer, and water rights placed in the acequia or community
ditch water bank shall not be subject to loss for non-use
during the period the rights are placed in the water bank. An

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1 acequia or community ditch water bank established pursuant to
2 this section is not subject to recognition or approval by the
3 interstate stream commission or the state engineer.

4 Section 2. Section 72-1-2.3 NMSA 1978 (being Laws 2002,
5 Chapter 77, Section 1) is amended to read:

6 "72-1-2.3. LOWER PECOS RIVER BASIN BELOW SUMNER LAKE
7 WATER BANK--ACEQUIA AND COMMUNITY DITCH WATER BANKS--INTERSTATE
8 STREAM COMMISSION. --

9 A. The interstate stream commission may recognize a
10 water bank established by an irrigation district, a conservancy
11 district, an artesian conservancy district, a community ditch,
12 an acequia or a water ~~[user's]~~ users association in the lower
13 Pecos river basin below Sumner lake for purposes of compliance
14 with the Pecos River Compact.

15 B. The interstate stream commission shall propose
16 and recommend to the state engineer for adoption rules for
17 recognition of a water bank that include:

18 (1) criteria, terms and conditions for deposit
19 of a water right in the bank;

20 (2) terms and conditions for the accrual,
21 pooling, exchange, assignment and conditions of the deposit of
22 a water right;

23 (3) ~~[the]~~ procedures for recording and annual
24 reporting of all transactions to the interstate stream
25 commission and the state engineer; and

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1 (4) procedures for the water bank to
2 temporarily transfer deposited water to new purposes and places
3 of use and points of diversion without formal proceedings
4 before the state engineer.

5 ~~[C. An acequia or community ditch may establish a~~
6 ~~water bank for the purpose of temporarily reallocating water~~
7 ~~without change of purpose of use or point of diversion to~~
8 ~~augment the water supplies available for the places of use~~
9 ~~served by the acequia or community ditch. The acequia or~~
10 ~~community ditch water bank may make temporary transfers of~~
11 ~~place of use without formal proceedings before the state~~
12 ~~engineer, and water rights placed in the acequia or community~~
13 ~~ditch water bank shall not be subject to loss for non-use~~
14 ~~during the period the rights are placed in the water bank.~~
15 ~~Acequia or community ditch water banks established pursuant to~~
16 ~~this subsection are not subject to recognition or approval by~~
17 ~~the interstate stream commission or the state engineer and are~~
18 ~~not subject to the rules established pursuant to the provisions~~
19 ~~of Subsection B of this section for lower Pecos river basin~~
20 ~~below Summer lake water banks.~~

21 ~~D.]~~ C. A lower Pecos river basin below Summer lake
22 water bank may contract with a person to accrue, pool,
23 exchange, assign or lease water rights to facilitate compliance
24 with the Pecos River Compact. A transaction and transfer of
25 water by a water bank in the Pecos river basin shall:

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- 1 (1) not impair other water rights;
- 2 (2) not deplete water in the system above that
- 3 level that would have occurred in the absence of the
- 4 transaction;
- 5 (3) comply with state law; and
- 6 (4) be within the same stream system or
- 7 underground water source.

8 [~~E. All authorities provided by this act shall~~

9 ~~terminate on December 31, 2005.~~]"

10 Section 3. Section 72-1-2.3 NMSA 1978 (being Laws 2002,

11 Chapter 77, Section 1, as amended) is repealed effective

12 December 31, 2005.