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SENATE BILL 494

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

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO WATER; AMENDING A SECTION OF CHAPTER 72 NMSA 1978  
TO PROVIDE FOR RULES CONSISTENT WITH ARTICLE 16 OF THE  
CONSTITUTION OF NEW MEXICO AND THE DOCTRINE OF PRIOR  
APPROPRIATION.

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

SECTION 1. Section 72-2-9.1 NMSA 1978 (being Laws 2003,  
Chapter 63, Section 1) is amended to read:

"72-2-9.1. PRIORITY ADMINISTRATION--EXPEDITED WATER  
MARKETING AND LEASING--STATE ENGINEER.--

A. The legislature recognizes that the adjudication  
process is slow, the need for water administration is urgent,  
compliance with interstate compacts is imperative and the state  
engineer has authority to administer water allocations in  
accordance with the water right priorities recorded with or

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1 declared or otherwise available to the state engineer.

2 B. The state engineer shall adopt rules for  
3 priority administration to ensure that authority is exercised:

4 (1) so as not to interfere with a future or  
5 pending adjudication;

6 (2) so as to create no impairment of water  
7 rights, other than what is required to enforce [~~priorities~~]  
8 Article 16 of the constitution of New Mexico and the doctrine  
9 of prior appropriation; and

10 (3) so as to create no increased depletions.

11 C. The state engineer shall adopt rules based on  
12 the appropriate hydrologic models to promote expedited  
13 marketing and leasing of water in those areas affected by  
14 priority administration. The rules shall be consistent with  
15 Article 16 of the constitution of New Mexico and the doctrine  
16 of prior appropriation and the rights, remedies and criteria  
17 established by law for proceedings for water use leasing and  
18 for changes in point of diversion, place of use and purpose of  
19 use of water rights. The rules shall not apply to acequias or  
20 community ditches or to water rights served by an acequia or  
21 community ditch.

22 D. Nothing in this section shall affect the  
23 partial final decree and settlement agreement as may be  
24 entered in the Carlsbad irrigation district project offer  
25 phase of *State of New Mexico ex rel. State Engineer v. Lewis,*

.192653.2

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*et al.*, Nos. 20294 and 22600 (N.M. 5th Jud. Dist.)."