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HOUSE MEMORIAL 74

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Yvette Herrell and James G. Townsend and Cathrynn N. Brown

A MEMORIAL

REQUESTING THE WATER RESOURCES RESEARCH INSTITUTE AT NEW MEXICO STATE UNIVERSITY TO CONVENE A TASK FORCE TO STUDY AND MAKE RECOMMENDATIONS TO IMPROVE THE REGIONAL WATER PLAN PLANNING PROCESS AND TO INVESTIGATE THE WATER LEVEL OF THE OGALLALA AQUIFER.

WHEREAS, the legislative authority for regional water planning was enacted in 1987 as Section 72-14-43 NMSA 1978; and

WHEREAS, in authorizing regional water planning, the legislature found that "the future water needs of New Mexico can best be met by allowing each region of the state to plan for its water future"; and

WHEREAS, in letters to water producers dated May 23, 2017, the state land office announced that it would not be issuing any new or renewal water easements from the Ogallala aquifer,

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1 citing a rapid rate of depletion of the Ogallala aquifer; and

2 WHEREAS, the state land office's announcement to the
3 producers seems to have been pronounced without regard to the
4 effect on regional water planning; the accommodation doctrine;
5 the impact on roads caused by increased tank truck traffic as
6 opposed to pipeline transport of water; the impact on
7 agricultural, industrial and municipal uses of water; the
8 impact on the oil and gas industry, which, without water,
9 drilling fluid cannot be made and well completions cannot be
10 accomplished; and without a stated scientific basis; and

11 WHEREAS, decisions regarding water resources that are
12 enacted without regard to regional water planning, such as the
13 one made by the state land office, undermine a region's ability
14 to adequately plan for the future and address the region's
15 economic needs; and

16 WHEREAS, in 2013, the interstate stream commission
17 initiated a regional water plan update program; and

18 WHEREAS, concerns have been voiced around the state that
19 the water plan update process is being driven by the state
20 rather than at the regional level, resulting in a failure to
21 use the best available science in the water plan update and
22 making regions potentially vulnerable to litigation; and

23 WHEREAS, ongoing, integrated water resources planning tied
24 to monitoring and implementation is vital to ensure the future
25 economic well-being of New Mexico;

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1 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF
2 REPRESENTATIVES OF THE STATE OF NEW MEXICO that the importance
3 of sound regional water planning be affirmed and that water
4 planning be implemented as the legislature intended; and

5 BE IT FURTHER RESOLVED that the water resources research
6 institute at New Mexico state university be requested to
7 convene a task force to use the best available technical data
8 and information about water rights adjudication to determine
9 whether there is a water shortage in the Ogallala aquifer and,
10 if so, the precise location of where the shortage exists; and

11 BE IT FURTHER RESOLVED that the task force define how to
12 accomplish future water planning in the state given the primacy
13 of water and mineral rights as the dominant estate and the land
14 as the servient estate; and

15 BE IT FURTHER RESOLVED that the task force study and make
16 recommendations to improve the following areas related to water
17 planning:

18 A. governance and institutional arrangements to
19 encourage collective learning and the consideration of issues
20 that are often reduced to "externalities";

21 B. the strengthening of planning linkages among
22 different types and levels of plans and among planning and
23 administration;

24 C. the full engagement of a broader range of
25 stakeholders throughout the planning process, including

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1 coordination with the office of the state engineer and
2 consideration of statewide hydrological data;

3 D. meaningful and ongoing consultation with the
4 governments of federally recognized Indian nations, tribes or
5 pueblos under the State-Tribal Collaboration Act;

6 E. the use of credible hydrological and demographic
7 data, common technical methodologies and local experts; and

8 F. the advancement of water rights adjudications by
9 making them a legislative priority and the exploration of
10 alternative agencies to undertake water rights adjudications,
11 in addition to a review of the multiple responsibilities of the
12 office of the state engineer; and

13 BE IT FURTHER RESOLVED that the task force develop through
14 an open process a detailed plan or proposal for legislative,
15 interstate stream commission and regional action that includes
16 the rationale for and results expected from water planning,
17 including specific tasks that need to be accomplished, a
18 milestone schedule and estimated costs; and

19 BE IT FURTHER RESOLVED that the task force be composed of
20 representatives from the water resources research institute,
21 the office of the state engineer, the department of environment
22 and the energy, minerals and natural resources department, in
23 addition to a diverse set of other participants representing,
24 at a minimum:

25 A. Indian nations, tribes or pueblos;

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- 1 B. the agricultural industry;
- 2 C. the extractive minerals industry;
- 3 D. the oil and gas industry;
- 4 E. economic development interests and urban
- 5 businesses;
- 6 F. environmental protection interests;
- 7 G. current and future water users; and
- 8 H. county and municipal governments; and

9 BE IT FURTHER RESOLVED that the task force address how
10 neighboring communities that share common water resources or
11 that are otherwise hydrologically connected may collaborate to
12 develop shared strategies to improve the communities'
13 resilience; and

14 BE IT FURTHER RESOLVED that the plan or proposal be
15 presented to the appropriate interim committee for endorsement
16 or modification no later than July 1, 2020; and

17 BE IT FURTHER RESOLVED that copies of this memorial be
18 transmitted to the director of the water resources research
19 institute at New Mexico state university, the state engineer,
20 the secretary of environment and the secretary of energy,
21 minerals and natural resources.