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HOUSE BILL 603

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

WILLIAM E. PORTER

AN ACT

RELATING TO RIPARIAN AREAS; ENACTING THE RIPARIAN ENHANCEMENT  
ACT; CREATING THE RIPARIAN ENHANCEMENT BOARD; MAKING AN  
APPROPRIATION.

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

Section 1. SHORT TITLE. -- This act may be cited as the  
"Riparian Enhancement Act".

Section 2. DEFINITIONS. -- As used in the Riparian  
Enhancement Act:

A. "associated uplands" means those lands of a  
watershed that are critical to the functioning and protection of  
a riparian area;

B. "board" means the riparian enhancement board  
created pursuant to Section 3 of the Riparian Enhancement Act;

C. "bureau" means the soil and water conservation

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1 bureau of the forestry division of the energy, minerals and  
2 natural resources department;

3 D. "enhancement" means improvement of riparian area  
4 components and characteristics, with the goal of augmenting the  
5 effectiveness of existing riparian area ecological functions;

6 E. "native species" means all species of plants  
7 naturally occurring, either currently or historically, in any  
8 ecosystem of New Mexico;

9 F. "natural methods" means methods that closely  
10 mimic or actually are natural processes;

11 G. "riparian area" means a zone of transition from  
12 an aquatic ecosystem to a terrestrial ecosystem, dependent upon  
13 surface or subsurface water, that reveals through the zone's  
14 existing or potential soil and vegetation complex the influence  
15 of such surface or subsurface water; and

16 H. "watershed" means the entire land area drained by  
17 a stream or system of connected streams resulting in all stream  
18 flow originating from the area being discharged through a single  
19 outlet.

20 Section 3. BOARD CREATED-- MEMBERSHIP-- REIMBURSEMENT. --

21 A. The "riparian enhancement board" is created. The  
22 board consists of nine voting members, including five ex-officio  
23 members and four public members appointed by the governor. The  
24 board shall elect one member of the board as chairman. The  
25 chairman shall have the powers and duties set forth by the rules

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1 of the board.

2 B. The ex-officio members are the director of the  
3 department of game and fish, the director of the forestry  
4 division of the energy, minerals and natural resources  
5 department, the secretary of environment, the director of the  
6 New Mexico department of agriculture and the commissioner of  
7 public lands.

8 C. The public members of the board are a private  
9 landowner whose primary source of income is from agriculture, a  
10 member of an environmental organization, a representative of the  
11 Native American community and a representative of urban or  
12 municipal interests.

13 D. The board may include nonvoting members by  
14 appointment through action of the board, including  
15 representatives of the United States bureau of land management,  
16 the United States forest service, the natural resources  
17 conservation service of the United States department of  
18 agriculture, the agricultural extension service of New Mexico  
19 state university and the United States fish and wildlife  
20 service.

21 E. Public board members shall be reimbursed for  
22 expenses in accordance with provisions of the Per Diem and  
23 Mileage Act that apply to nonsalaried public officers. Public  
24 members shall receive no other compensation, perquisite or  
25 allowance for service as a member of the board. Advisory

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1 nonvoting members shall not be reimbursed for expenses unless  
2 otherwise entitled to reimbursement by virtue of their  
3 respective positions.

4 F. Public members of the board shall be appointed  
5 for and serve terms of four years, except for the members first  
6 appointed who shall be appointed for and serve terms to be  
7 chosen by lot:

- 8 (1) one member, a term of four years;
- 9 (2) one member, a term of three years;
- 10 (3) one member, a term of two years; and
- 11 (4) one member, a term of one year.

12 Section 4. BOARD AUTHORITY.--In addition to the specific  
13 authority granted the board in Sections 6 through 8 of the  
14 Riparian Enhancement Act, the board also has authority to take  
15 any action to fulfill its responsibilities under that act,  
16 including the authority to adopt and promulgate regulations.

17 Section 5. STAFF--MEETINGS.--The bureau shall provide  
18 staff for the daily operation of the board, including scheduling  
19 meetings, providing public notice of meetings and other board  
20 activities and keeping records of board activities. The board  
21 shall meet annually and as needed and at the discretion of the  
22 chairman. The bureau shall provide professional technical  
23 assistance or refer requesters to other sources for watershed  
24 and riparian management planning.

25 Section 6. RIPARIAN RESTORATION AND ENHANCEMENT PROGRAM --

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1           A. The board shall conduct a riparian restoration  
2 and enhancement program in a manner that provides the greatest  
3 possible opportunity for volunteer participation to achieve the  
4 goals of the program.

5           B. In developing the riparian restoration and  
6 enhancement program, the board shall:

7                   (1) ensure the implementation of riparian  
8 restoration and enhancement projects approved by the board  
9 through the support of the bureau;

10                   (2) request any expertise required for a  
11 project from an appropriate state agency depending on the type  
12 and purpose of the project;

13                   (3) provide educational and informational  
14 materials to promote public awareness of issues involving  
15 watershed and riparian health and management;

16                   (4) coordinate the activities of persons,  
17 agencies or political subdivisions developing local riparian  
18 enhancement projects approved by the board;

19                   (5) grant funds from sources available to the  
20 board for the implementation of approved projects;

21                   (6) develop and maintain a centralized  
22 repository for information about the effects of riparian  
23 enhancement projects;

24                   (7) assign priority to proposed projects  
25 involving cooperative efforts and emphasize using natural

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1 methods;

2 (8) identify and report gaps in research or  
3 available information about watershed and riparian management;

4 (9) cooperate with appropriate federal entities  
5 to identify the needs and interests of the state so that federal  
6 plans and project schedules relating to watershed and riparian  
7 enhancement incorporate the state's priorities for watershed and  
8 riparian enhancement to the fullest extent practicable;

9 (10) encourage the use of natural methods and  
10 native plants to enhance the riparian areas and associated  
11 uplands of the state's watersheds; and

12 (11) solicit and accept donations and grants to  
13 carry out the objectives of the board.

14 Section 7. ADVISORY AND TECHNICAL COMMITTEES. -- The board  
15 may establish advisory and technical committees as deemed  
16 necessary to aid and advise the board in the performance of its  
17 functions. The committees may be continuing or temporary. The  
18 board shall determine the representation, membership, terms and  
19 organization of the committees. The board shall appoint the  
20 members in a manner that will ensure broad representation of  
21 public interests and scientific viewpoints. The chairman of the  
22 board shall serve as an ex-officio member of each committee.

23 Section 8. REQUESTS FOR FUNDING OF PROJECTS. --

24 A. Any person, organization, landowner, rancher,  
25 farmer, state agency, federal agency, tribal government or

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1 political subdivision of the state may submit a request for  
2 funding for or for advice and assistance in developing a  
3 watershed or riparian enhancement project under the program  
4 established by the board.

5 B. The request shall be filed in accordance with  
6 regulations adopted by the board. The requests shall be  
7 submitted through the bureau.

8 C. The board shall establish criteria for granting  
9 funding or other requests. Within ninety days from the date the  
10 bureau receives a request, the bureau shall provide the  
11 requested technical advice or assistance for the project or  
12 screen grant proposals and forward eligible projects to the  
13 board for approval or disapproval.

14 D. A watershed or riparian enhancement project may  
15 use mechanical, vegetative or structural methods, including  
16 livestock fencing or exclusions, grazing management systems,  
17 erosion control, streambank stabilization, forest, range or  
18 cropland treatment and site specific in-stream structures. A  
19 project is not limited to land treatments, but may include  
20 resource plans, outreach and educational materials, workshops  
21 and symposiums that ultimately result in riparian or watershed  
22 enhancement, but shall not include water right applications or  
23 water right litigation or resolution issues.

24 E. The board shall approve for implementation only  
25 those enhancement projects that:

1                   (1) are based on sound principles of watershed  
2 and riparian management;

3                   (2) use enhancement methods most adapted to the  
4 project locale; and

5                   (3) meet all federal, state or local regulatory  
6 requirements.

7                   F. The board may fund a project for the restoration  
8 of a riparian area or associated upland that is carried out in  
9 conjunction with a water storage structure. The board shall not  
10 approve funding for any project that consists solely of a water  
11 storage structure.

12                   G. The board shall adopt rules, criteria and  
13 standards to carry out the provisions of the riparian  
14 restoration and enhancement program. The rules and standards  
15 shall include:

16                   (1) criteria for selecting projects to receive  
17 technical assistance or funding from the board; and

18                   (2) conditions of board approval of project  
19 proposals, including provisions satisfactory to the board for  
20 inspection and evaluation of the implementation of a project  
21 that includes all necessary agreements to allow the board and  
22 employees of any cooperating agency providing staff services for  
23 the board access to the project area; provisions satisfactory to  
24 the board for controlling the expenditure of and accounting for  
25 any funds granted by the board for implementation of the



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1 project; an agreement that those initiating the project will  
2 submit all pertinent information and research gained from the  
3 project to the board for inclusion in the centralized repository  
4 established by the board; and provisions for the continued  
5 maintenance of restoration projects by the applicant for the  
6 time period specified.

7 Section 9. APPROPRIATION. --

8 A. Six hundred fifty thousand dollars (\$650,000) is  
9 appropriated from the general fund to the soil and water  
10 conservation bureau of the forestry division of the energy,  
11 minerals and natural resources department for expenditure in  
12 fiscal year 1998 in the following amounts for the following  
13 purposes:

14 (1) one hundred twenty thousand dollars  
15 (\$120,000) to provide for two full-time equivalents for natural  
16 resource professionals to provide staff services, project  
17 oversight expenses and operational expenses to the riparian  
18 enhancement board; and

19 (2) five hundred thirty thousand dollars  
20 (\$530,000) to fund riparian enhancement projects approved by the  
21 riparian enhancement board in accordance with the provisions of  
22 the Riparian Enhancement Act.

23 B. Any unexpended or unencumbered balance remaining  
24 at the end of fiscal year 1998 shall revert to the general fund.

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 603

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO RIPARIAN AREAS; ENACTING THE RIPARIAN ENHANCEMENT  
ACT; CREATING A TASK FORCE; PROVIDING POWERS AND DUTIES;  
CREATING A FUND; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE. -- This act may be cited as the  
"Riparian Enhancement Act".

Section 2. DEFINITIONS. -- As used in the Riparian  
Enhancement Act:

A. "associated uplands" means those lands of a  
watershed that are critical to the functioning and protection of  
a riparian area;

B. "bureau" means the soil and water conservation  
bureau of the forestry division of the energy, minerals and  
natural resources department;

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1 C. "districts" means the soil and water conservation  
2 districts;

3 D. "enhancement" means improvement of watershed and  
4 riparian area components and characteristics, with the goal of  
5 augmenting the effectiveness of existing riparian area  
6 ecological functions;

7 E. "native plants" means species of plants  
8 indigenous to New Mexico;

9 F. "natural methods" means methods that are or  
10 closely mimic natural processes;

11 G. "riparian area" means a zone of transition from  
12 an aquatic ecosystem to a terrestrial ecosystem, dependent upon  
13 surface or subsurface water, that reveals through the zone's  
14 existing or potential soil and vegetation complex the influence  
15 of such surface or subsurface water;

16 H. "task force" means the riparian enhancement task  
17 force; and

18 I. "watershed" means the entire land area drained by  
19 a stream or system of connected streams resulting in all stream  
20 flow originating from the area being discharged through a single  
21 outlet.

22 Section 3. TASK FORCE CREATED--MEMBERSHIP--TERMS--  
23 REIMBURSEMENT--MEETINGS--STAFF. --

24 A. The "riparian enhancement task force" is created.  
25 The task force shall approve grant applications for watershed  
and riparian enhancement projects and shall advise the  
commission and the bureau on issues related to riparian  
restoration and enhancement. The task force shall consist of

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1 eleven members as follows:

2 (1) the director of the department of game and  
3 fish or his designee;

4 (2) the secretary of energy, minerals and natural  
5 resources or his designee;

6 (3) the secretary of environment or his designee;

7 (4) the director of the New Mexico department of  
8 agriculture or his designee;

9 (5) the commissioner of public lands or his  
10 designee; and

11 (6) six public members appointed by the soil and  
12 water conservation commission as follows:

13 (a) a private landowner whose primary source  
14 of income is from farming;

15 (b) a private landowner whose primary source  
16 of income is ranching;

17 (c) a representative of an environmental  
18 organization;

19 (d) a representative of the Indian tribes  
20 and pueblos;

21 (e) a representative of urban or municipal  
22 interests; and

23 (f) a representative of industry.

24 B. Public members shall be appointed for terms of four  
25 years; provided that initial terms shall be chosen by lot so that

1 one member serves for a term of four years, two members serve for  
 2 terms of three years, one member serves for a term of two years and  
 3 two members serve for a term of one year. A vacancy on the task  
 4 force shall be filled by appointment by the commission for the  
 5 unexpired term. Members shall serve until their successors have  
 6 been appointed and qualified.

7 C. The task force shall elect a chairman and other  
 8 officers it deems necessary.

9 D. The public members may receive per diem and mileage  
 10 as provided in the Per Diem and Mileage Act, but shall receive no  
 11 other compensation, perquisite or allowance.

12 E. The task force shall meet as needed. Meetings may  
 13 be called by the chairman and shall be called upon the request of  
 14 three or more members.

15 F. Staff for the task force shall be provided by the  
 16 bureau.

17 Section 4. EXPERT ADVICE-- AGENCY COOPERATION. --

18 A. The task force may seek the advice of the United  
 19 States bureau of land management, the United States forest service,  
 20 the natural resources conservation service of the United States  
 21 department of agriculture, the United States fish and wildlife  
 22 service, the cooperative extension service of New Mexico state  
 23 university, the state park and recreation division of the energy,  
 24 minerals and natural resources department, environmental  
 25 organizations and others it deems necessary to carry out its duties

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1 pursuant to the Riparian Enhancement Act.

2 B. State agencies shall provide assistance as requested  
3 to develop and implement watershed and riparian enhancement  
4 projects.

5 Section 5. TECHNICAL COMMITTEES. --The task force may  
6 establish technical committees as deemed necessary to aid and  
7 advise the task force. The task force shall appoint the members to  
8 a committee in a manner that will ensure broad representation of  
9 public interests, Native American interests and scientific  
10 viewpoints. The chairman of the task force shall serve as an ex-  
11 officio member of each committee.

12 Section 6. TASK FORCE, BUREAU AND DISTRICTS-- POWERS AND  
13 DUTIES. --

14 A. The task force shall:

15 (1) approve grant applications for watershed and  
16 riparian enhancement projects;

17 (2) adopt guidelines, criteria and standards for  
18 watershed and riparian enhancement projects;

19 (3) make recommendations to the bureau, the  
20 districts and the soil and water conservation commission on matters  
21 related to watershed and riparian enhancement;

22 (4) encourage the use of volunteers in the  
23 implementation of watershed and riparian enhancement projects;

24 (5) assign priority to projects it approves that  
25 involve cooperative efforts and emphasize using natural methods for

1 watershed and riparian enhancement;

2 (6) identify and report gaps in research and  
3 available information about watershed and riparian management;

4 (7) cooperate with appropriate federal entities  
5 to identify the needs and interests of the state to ensure that  
6 federal plans and project schedules relating to watershed and  
7 riparian enhancement incorporate the state's priorities for  
8 watershed and riparian enhancement to the fullest extent  
9 practicable; and

10 (8) solicit and accept gifts, grants and  
11 donations to carry out the provisions of the Riparian Enhancement  
12 Act.

13 B. The bureau shall:

14 (1) oversee watershed and riparian enhancement  
15 projects approved by the task force;

16 (2) provide technical advice and assistance to  
17 watershed and riparian enhancement projects;

18 (3) request any expertise required for a project  
19 from the appropriate state agency;

20 (4) provide educational and informational  
21 materials to promote public awareness of issues involving watershed  
22 and riparian health and management;

23 (5) make grants to implement approved projects;

24 and

25 (6) develop and maintain a centralized repository

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1 for information about the effects of watershed and riparian  
2 enhancement.

3 C. The districts shall:

4 (1) assist landowners in developing and  
5 implementing watershed and riparian enhancement projects and  
6 coordinate the activities of persons, agencies and political  
7 subdivisions that are developing local projects;

8 (2) encourage the use of natural methods and  
9 native plants to enhance riparian areas and associated uplands of  
10 the state's watersheds; and

11 (3) assist the task force and bureau in carrying  
12 out their duties.

13 Section 7. RIPARIAN ENHANCEMENT PROGRAM- - CRITERIA FOR  
14 APPROVAL OF PROJECTS. --

15 A. The task force, in conjunction with the districts  
16 and the bureau, shall conduct a watershed and riparian enhancement  
17 program. The program shall include providing education, research,  
18 technical assistance and funding for watershed and riparian  
19 enhancement projects.

20 B. Any person, organization, landowner, rancher,  
21 farmer, state agency, political subdivision of the state, federal  
22 agency or tribal government may submit an application for funding  
23 for or a request for advice or assistance in developing a watershed  
24 and riparian enhancement project.

25 C. The task force shall establish criteria for grant



1 applications and awards. Grant applications shall be submitted in  
2 the form and manner prescribed by the task force. Requests for  
3 advice or assistance and grant applications shall be submitted  
4 through the districts or the bureau.

5 D. Within ninety days of a request, a district or the  
6 bureau may provide the requested advice or assistance. The  
7 districts shall review grant applications for projects within their  
8 boundaries and forward eligible projects to the task force within  
9 ninety days of receipt. The task force shall approve or disapprove  
10 a grant application.

11 E. The task force shall approve grant applications for  
12 those watershed and riparian enhancement projects that:

13 (1) are based on sound principles of watershed  
14 and riparian management;

15 (2) use enhancement methods most adapted to the  
16 project locale; and

17 (3) meet all federal, state or local regulatory  
18 requirements, including state water plans promulgated by the state  
19 engineer.

20 F. In addition to other requirements of the Riparian  
21 Enhancement Act, the districts, the bureau or the task force shall  
22 consider the following when approving projects seeking technical  
23 assistance or funding:

24 (1) provisions satisfactory to the districts for  
25 inspection and evaluation of the project that includes all

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1 necessary agreements to allow the districts and any cooperating  
2 agency providing staff services for the task force access to the  
3 project area;

4 (2) provisions satisfactory to the task force and  
5 the bureau for controlling the expenditure of and accounting for  
6 any money granted for a project; and

7 (3) provisions for the continued maintenance of  
8 restoration projects by the applicant for the time period  
9 specified.

10 G. A watershed and riparian enhancement project may use  
11 mechanical, biological, vegetative or structural methods, including  
12 livestock grazing management systems; erosion control; stream bank  
13 stabilization; forest, range or cropland treatment; site-specific  
14 in-stream structures; and other methods approved by the task force.  
15 Projects are not limited to land treatments, but may include  
16 resource plans, outreach and educational materials, workshops and  
17 symposiums that ultimately result in watershed and riparian  
18 enhancement. Projects shall not include water rights applications  
19 or water rights litigation or resolution issues.

20 H. The task force may approve funding for a project for  
21 the restoration of a riparian area or associated upland that is  
22 carried out in conjunction with a water storage structure. The  
23 task force shall not approve funding for any project that consists  
24 solely of a water storage structure.

25 Section 8. ~~FUND--CREATED--ADMINISTRATION.~~ --The "riparian

1 enhancement fund" is created in the state treasury. The fund  
 2 consists of appropriations, gifts, grants, donations and bequests.  
 3 Money in the fund shall not revert at the end of any fiscal year.  
 4 The fund shall be administered by the bureau, and money in the fund  
 5 is appropriated to the bureau to provide grants for watershed and  
 6 riparian enhancement projects approved by the task force.

7 Section 9. APPROPRIATION. -- Six hundred fifty thousand  
 8 dollars (\$650,000) is appropriated from the general fund to the  
 9 riparian enhancement fund for expenditure in fiscal year 1998 to  
 10 carry out the provisions of the Riparian Enhancement Act; provided  
 11 that no more than fifteen percent of the appropriation shall be  
 12 expended for administration and per diem and mileage expenses of  
 13 the task force. Any unexpended or unencumbered balance remaining  
 14 at the end of fiscal year 1998 shall not revert to the general  
 15 fund.

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**State of New Mexico  
House of Representatives**

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 13, 1997

Mr. Speaker:

Your AGRICULTURE AND WATER RESOURCES COMMITTEE, to  
whom has been referred

HOUSE BILL 603

has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that

HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE  
SUBSTITUTE FOR HOUSE BILL 603

DO PASS, and thence referred to the JUDICIARY COMMITTEE.

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HACC/CS/HB 603

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Respectfully submitted,

\_\_\_\_\_  
G. X. McSherry, Chairman

Adopted \_\_\_\_\_  
(Chief Clerk)

Not Adopted \_\_\_\_\_  
(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 0 Against

Yes: 9

Excused: None

Absent: None

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**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**March 20, 1997**

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred  
HOUSE AGRICULTURE AND WATER RESOURCES COMMITTEE  
SUBSTITUTE FOR HOUSE BILL 603  
has had it under consideration and reports same with  
recommendation that it DO PASS, and thence referred to the  
APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

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Thomas P. Foy, Chairman

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Alwin, Luna, Mallory, Rios, Sanchez, Stewart

Absent: None

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