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**HOUSE BILL 428**

**43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998**

**INTRODUCED BY**

**JOE M STELL**

**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. "appropriate methods" means practices to  
restore riparian and associated uplands that are accepted by  
the best available science;**

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

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

3 D. "department" means the New Mexico department of  
4 agriculture;

5 E. "districts" means the soil and water  
6 conservation districts;

7 F. "enhancement" means improvement of watershed  
8 and riparian area components and characteristics, with the  
9 goal of augmenting the effectiveness of existing riparian area  
10 ecological functions;

11 G. "native plants" means all species of plants  
12 indigenous to New Mexico;

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

18 I. "task force" means the riparian enhancement  
19 task force; and

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

24 Section 3. TASK FORCE CREATED-- MEMBERSHIP-- TERMS--  
25 REIMBURSEMENT-- MEETINGS-- STAFF. --

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1           A. The "riparian enhancement task force" is  
2 created. The task force shall approve grant applications for  
3 watershed and riparian enhancement projects and shall advise  
4 the commission on issues related to riparian restoration and  
5 enhancement. The task force shall consist of eleven members  
6 as follows:

7                   (1) the director of the department of game  
8 and fish or his designee;

9                   (2) the state engineer or his designee;

10                  (3) the secretary of environment or his  
11 designee;

12                  (4) the director of the New Mexico department  
13 of agriculture or his designee;

14                  (5) the commissioner of public lands or his  
15 designee; and

16                  (6) six public members appointed by the  
17 commission as follows:

18                   (a) a private landowner whose primary  
19 source of income is farming;

20                   (b) a private landowner whose primary  
21 source of income is ranching;

22                   (c) a representative of an  
23 environmental organization;

24                   (d) a representative of the Indian  
25 tribes and pueblos;

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1 (e) a representative of urban or  
2 municipal interests; and

3 (f) a representative of the oil and gas  
4 industry.

5 B. Public members shall be appointed for terms of  
6 four years; provided that initial terms shall be chosen by lot  
7 so that one member serves for a term of four years, two  
8 members serve for terms of three years, one member serves for  
9 a term of two years and two members serve for a term of one  
10 year. A vacancy on the task force shall be filled by  
11 appointment by the commission for the unexpired term. Members  
12 shall serve until their successors have been appointed and  
13 qualified.

14 C. The task force shall elect a chairman and other  
15 officers it deems necessary.

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

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

22 F. Staff for the task force shall be provided by  
23 the department.

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

25 A. The task force may seek the advice of any state

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1 or federal agency, environmental organizations and others it  
2 deems necessary to carry out its duties pursuant to the  
3 Riparian Enhancement Act.

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

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

14 Section 6. TASK FORCE-- DEPARTMENT-- POWERS AND DUTIES. --

15 A. The task force shall:

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

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

20 (3) make recommendations to the department,  
21 the districts and the commission on matters related to  
22 watershed and riparian enhancement;

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

25 (5) assign priority to projects it approves

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1 that involve cooperative efforts and emphasize using  
2 appropriate methods for watershed and riparian enhancement;

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

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

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

14 B. The department shall:

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

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

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

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

24 (5) make grants to implement approved  
25 projects; and

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1 (6) develop and maintain a centralized  
2 repository for information about the effects of watershed and  
3 riparian enhancement.

4 C. The districts shall:

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

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

12 (3) assist the task force and department in  
13 carrying out their duties.

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

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

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

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

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

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

- 14                   (1) are based on sound principles of  
15 watershed and riparian management;
- 16                   (2) use enhancement methods most adapted to  
17 the project locale; and
- 18                   (3) meet all federal, state or local  
19 regulatory requirements, including state water plans  
20 promulgated by the state engineer.

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

- 25                   (1) provisions satisfactory to the districts



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1 for inspection and evaluation of the project that includes all  
2 necessary agreements to allow the districts and any  
3 cooperating agency providing staff services for the task force  
4 access to the project area;

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

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

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

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

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1 for any project that consists solely of a water storage  
2 structure.

3 Section 8. FUND CREATED-- ADMINISTRATION. --The "riparian  
4 enhancement fund" is created in the state treasury. The fund  
5 consists of appropriations, gifts, grants, donations and  
6 bequests. Money in the fund shall not revert at the end of  
7 any fiscal year. The fund shall be administered by the  
8 department, and money in the fund is appropriated to the  
9 department to carry out the provisions of the Riparian  
10 Enhancement Act.

11 Section 9. APPROPRIATION. --Six hundred fifty thousand  
12 dollars (\$650,000) is appropriated from the general fund to  
13 the riparian enhancement fund for expenditure in fiscal year  
14 1999 and subsequent fiscal years to carry out the provisions  
15 of the Riparian Enhancement Act; provided that no more than  
16 fifteen percent of the appropriation shall be expended for  
17 administration and per diem and mileage expenses of the  
18 riparian enhancement task force. Any unexpended or  
19 unencumbered balance remaining at the end of a fiscal year  
20 shall not revert to the general fund.

1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998  
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6 February 7, 1998  
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8 Mr. Speaker:  
9

10 Your AGRICULTURE AND WATER RESOURCES COMMITTEE,  
11 to whom has been referred  
12

13 HOUSE BILL 428  
14

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, and thence referred to the  
17 JUDICIARY COMMITTEE.

18 Respectfully submitted,  
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23 G. X. McSherry, Chairman  
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1 FORTY-THIRD LEGISLATURE  
2 SECOND SESSION, 1998

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4 Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

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6 (Chief Clerk)

(Chief Clerk)

7  
8 Date \_\_\_\_\_

9  
10 The roll call vote was 7 For 0 Against

11 Yes: 7

12 Excused: Abeyta, Townsend

13 Absent: None

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