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SENATE JOINT MEMORIAL 38

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Joseph J. Carraro

A JOINT MEMORIAL

REQUESTING THE NEW MEXICO LEGISLATIVE COUNCIL TO APPOINT AN INTERIM WATER COMMITTEE TO DEVELOP LEGISLATION FOR THE SECOND SESSION OF THE FORTY-FOURTH LEGISLATURE TO ADDRESS URGENT LEGAL AND ADMINISTRATIVE PROBLEMS.

WHEREAS, New Mexico water is the subject of at least twenty major lawsuits and federal initiatives that individually and collectively threaten the state government's continued authority to administer New Mexico's water; and

WHEREAS, New Mexico's overuse of the Pecos river has cost the state more than fifty-five million dollars (\$55,000,000) since the United States supreme court in 1987 enjoined the state to comply with the interstate compact, and this expenditure has not achieved permanent compliance and has not eliminated the risk that New Mexico may violate that

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1 injunction; and

2 WHEREAS, the implication of the supreme court injunction
3 is that most New Mexicans who live in the Pecos river basin
4 are in peril of losing their livelihoods and ways of life as a
5 result of a potential priority call; and

6 WHEREAS, New Mexico's current compliance with the Rio
7 Grande Compact requirements at Elephant Butte reservoir
8 actually follows serious historical shortfalls that resulted
9 in litigation with Texas, again in the supreme court,
10 litigation between the state and its water users and extremely
11 costly and highly controversial facilities management
12 protocols developed in the 1950s; and

13 WHEREAS, the 1950s' solutions for the Rio Grande Compact
14 problems have been adequate to date but are clearly inadequate
15 for the future, portending potential loss of water supply for
16 New Mexicans in the Rio Grande valley; and

17 WHEREAS, Texas has asserted in federal, interstate
18 litigation now under way in the lower Rio Grande that New
19 Mexico ground water pumping has deprived Texas of its share of
20 Rio Grande water and impaired the quality of water it does
21 receive; and

22 WHEREAS, if water shortages in New Mexico, Texas and
23 Mexico are not avoided, the United States supreme court may
24 become the permanent policymaker, not the New Mexico state
25 legislature; and

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1 WHEREAS, New Mexico water is being demanded by the
2 federal government for endangered species in a manner that
3 increases depletions of these fully appropriated stream
4 systems, imperiling New Mexico's allocation of Colorado river
5 water, New Mexicans' water rights, the state's economy, its
6 culture, its future prosperity and its legal authority; and

7 WHEREAS, diminishment of water quality threatens water
8 supplies, requires additional investments in treatment and
9 causes environmental degradation and potential litigation
10 expenses; and

11 WHEREAS, New Mexico has enjoyed two decades of unusually
12 wet weather, and many leaders and citizens appear to have
13 forgotten or never experienced the extreme anguish and
14 problems that inevitable droughts will bring; and

15 WHEREAS, political gridlock results from cumbersome,
16 costly administration of New Mexico's existing water law; and

17 WHEREAS, the state's water supply is for the most part
18 fully appropriated, and the office of the state engineer is
19 strained beyond its fiscal resources to effectively process
20 the pending caseload of water permit applications and water
21 rights adjudication procedures in various federal and state
22 courts; and

23 WHEREAS, New Mexico's failure to complete adjudications
24 will lead to overuse of its interstate water rights,
25 impairment of senior water rights, severe curtailment of

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1 junior uses, more costly litigation and continued federal
2 intervention; and

3 WHEREAS, New Mexico faces the imperatives to conserve
4 water, stretch its uses and transfer uses while not impairing
5 water rights or compliance with interstate obligations; and

6 WHEREAS, cities are already perilously close to emergency
7 measures; Las Cruces with sufficient water rights for only
8 three years of anticipated growth and no sources for
9 acquisition of additional water rights, Albuquerque
10 potentially losing its San Juan-Chama rights and rapidly
11 depleting its underground supplies, Santa Fe facing threats to
12 its watershed and ground water supply from development and
13 Clovis and Hobbs facing tremendous expenditures for new wells
14 and infrastructure to maintain adequate service levels; and

15 WHEREAS, Native American water rights have not been
16 asserted completely or quantified, creating doubts that
17 existing water users will continue to enjoy their present
18 water uses; and

19 WHEREAS, New Mexico is fiftieth among the states in per
20 capita income and life, economic viability, environmental
21 health and cultural preservation, and social stability depends
22 on water; and

23 WHEREAS, the legislative finance committee recommends in
24 its 1999 report to the legislature that statutory changes be
25 made to improve water management; and

1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5 February 11, 1999

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7 Mr. President:

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9 Your CONSERVATION COMMITTEE, to whom has been referred

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11 SENATE JOINT MEMORIAL 38

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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23 Fernando R. Macias, Chairman

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Adopted _____ Not

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Eisenstadt, Vernon, Rodarte

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 March 9, 1999
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8 Mr. Speaker:
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10 Your AGRICULTURE AND WATER RESOURCES COMMITTEE,
11 to whom has been referred
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13 SENATE JOINT MEMORIAL 38
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17 Respectfully submitted,
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22 Joe M Stell, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HAGC/ SJM 38

Page 9

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Pearce, Varela

Absent: None

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