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SENATE BILL 1090

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Carlos R. Cisneros

AN ACT

RELATING TO WATER; AMENDING A SECTION OF THE NMSA 1978 TO
PROVIDE FOR THE STATE ENGINEER'S JURISDICTION OVER THE
CONSTRUCTION AND OPERATION OF DAMS.

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

Section 1. Section 72-5-32 NMSA 1978 (being Laws 1941,
Chapter 126, Section 25, as amended) is amended to read:

"72-5-32. CONSTRUCTION AND OPERATION OF DAMS [~~EXCEEDING
TEN FEET IN HEIGHT~~].--

A. Any person, association or corporation, public
or private, the state or the United States hereafter intending
to construct and operate a dam shall meet the requirements of
filing applications for appropriations and use of water
pursuant to Section 72-5-1, 72-5-22, 72-5-23 or 72-5-24 NMSA
1978. Any person, association or corporation, public or

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1 private, the state or the United States intending to construct
2 and operate a dam that exceeds ten feet in height from the
3 lowest natural ground surface elevation to the crest of the dam
4 or impounds more than ten acre-feet of water shall also submit
5 on a form prescribed by the state engineer detailed plans to
6 the state engineer for approval before construction. If the
7 state engineer finds that the dam design and operation is safe,
8 [he] the state engineer shall approve the plans [~~provided that~~
9 ~~this section shall not apply to erosion control structures~~
10 ~~whose maximum storage capacity does not exceed ten acre-feet~~
11 ~~and are constructed for the sole purpose of sediment control.~~
12 ~~An erosion control structure shall not impound surface water in~~
13 ~~any amount for fishing, fish propagation, recreation or~~
14 ~~aesthetic purposes, which shall require a permit pursuant to~~
15 ~~Section 72-5-1 NMSA 1978].~~

16 B. Flood and erosion control dams shall not impound
17 water for more than ninety-six hours, and water impounded shall
18 not be placed to any beneficial use. If any person,
19 association or corporation, public or private, or the state or
20 the United States intends to construct and operate a flood or
21 erosion control dam, that entity is exempt from meeting the
22 requirements of filing applications for appropriation and use
23 of water.

24 C. Any person, association or corporation, public
25 or private, the state or the United States that intends to

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1 construct and operate a flood or erosion control dam that:
2 (1) impounds more than ten acre-feet of water
3 shall submit on a form prescribed by the state engineer
4 detailed plans to the state engineer for approval before
5 construction, and if the state engineer finds that the dam
6 design and operation is safe, the state engineer shall approve
7 the plans; or
8 (2) impounds ten acre-feet or less of water
9 shall file a notice of intent to construct a flood or erosion
10 control dam with the state engineer on a form prescribed by the
11 state engineer and no further action shall be required.
12 D. The state engineer shall have final authority
13 over determination of height, storage and impoundment duration
14 for all dams."