



STATUTE

§ 72-14-3.3

MICHIE'S ANNOTATED STATUTES OF NEW MEXICO

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*** THIS SECTION IS CURRENT THROUGH THE SECOND SESSION OF THE FORTY-EIGHTH
LEGISLATURE ***

*** ANNOTATIONS CURRENT THROUGH 2008-NMCA-048 AND 2008-NMSC-016 ***

CHAPTER 72. WATER LAW

ARTICLE 14. INTERSTATE STREAM COMMISSION; PROTECTION OF INTERSTATE STREAMS

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N.M. Stat. Ann. § 72-14-3.3 (2008)

§ 72-14-3.3. Interstate stream commission; additional powers; strategic water reserve

A. The interstate stream commission shall establish a strategic water reserve and may purchase or lease from willing sellers or lessors or receive through donation surface water or water rights or storage rights to compose the reserve. The commission may also purchase or lease from willing sellers or lessors or receive by donation underground water or water rights for the strategic water reserve for cessation of pumping or limited short-term stream augmentation. At no time shall the use of water or water rights held by the strategic water reserve result in an increase in net depletions in any basin. The commission shall pay no more than the appraised market value to purchase or lease water or water rights and storage rights for the strategic water reserve. The commission may accept money or grants from federal or other governmental entities or other persons to purchase or lease water or water rights for the strategic water reserve, to pay administrative costs and to develop, construct, operate and maintain infrastructure for the delivery of water to the location of need. The commission shall not acquire water or water rights that are served by or owned by an acequia or community ditch established pursuant to Chapter 73, Articles 2 and 3 NMSA 1978 for inclusion in the strategic water reserve. The commission shall not acquire water or water rights that are served by an irrigation district established pursuant to Chapter 73, Article 10 NMSA 1978, except through contractual arrangement with the district board of directors or as a special water users association established pursuant to Chapter 73, Article 10 NMSA 1978, but nothing in this section shall be construed to authorize the interstate stream commission to acquire water rights contrary to *Section 72-1-2.4 NMSA 1978*. The commission shall acquire only water rights that have sufficient seniority and consistent, historic beneficial use to effectively contribute to the purpose of the strategic water reserve. The commission shall not acquire water or water rights for the strategic water reserve by condemnation and may only condemn real property when that property is needed for infrastructure related to the conveyance of water. Water in the strategic water reserve shall not be subject to forfeiture pursuant to Chapter 72 NMSA 1978. Water or water rights shall only be acquired with the explicit approval of the commission.

B. Water and water rights in the strategic water reserve shall be used to:

- (1) assist the state in complying with interstate stream compacts and court decrees; or
- (2) assist the state and water users in water management efforts for the benefit of threatened or endangered species or in a program intended to avoid additional listings of species. Management of water pursuant to this subsection shall be done in conjunction with collaborative programs or processes where they exist. Use of the strategic water reserve pursuant to this paragraph shall be limited to aquatic or obligate riparian species.

C. The interstate stream commission shall develop river reach or ground water basin priorities for the acquisition of water or water rights and storage rights for the strategic water reserve in consultation with the New Mexico interstate stream compact commissioners, the office of the state engineer and the attorney general's office. For each river reach or ground water basin, additional prioritization shall be developed in coordination with the governing bodies of the following organizations within the affected river reach or ground water basin:

- (1) Indian nations, tribes and pueblos;

- (2) boards of county commissioners;
- (3) municipalities;
- (4) special districts established pursuant to Chapter 73 NMSA 1978;
- (5) soil and water conservation districts;
- (6) water authorities; and
- (7) water planning regions.

D. Nothing in this section shall modify or repeal any authority currently vested in any organization described in Subsection C of this section.

E. The interstate stream commission may sell or lease water or water rights from the strategic water reserve at no less than the appraised market value. The commission may sell water rights only if the rights are no longer necessary for the purposes for which they were acquired for the reserve; provided that water rights in the reserve shall not be sold to the United States. Pursuant to a sale of water rights from the strategic water reserve by the interstate stream commission, the commission shall first make the offer of sale for the original purpose of use. Proceeds of any sale are appropriated to the office of the state engineer to adjudicate water rights. Proceeds of any leases are appropriated to the interstate stream commission for carrying out the purposes of the strategic water reserve.

F. Water or water rights acquired for the strategic water reserve or water or water rights sold or leased from the reserve shall remain in their river reach or ground water basin of origin.

G. Transactions with members of an irrigation or conservancy district established pursuant to Chapter 73 NMSA 1978 shall provide for the strategic water reserve to pay the annual assessment to the district that would accrue to the district absent the transaction.

H. Cumulative impacts of the strategic water reserve acquisitions and uses shall not adversely affect existing water users or delivery systems.

I. The interstate stream commission shall adopt rules consistent with the terms of this section, including rules to ensure:

- (1) that water and water rights acquired for the strategic water reserve are used only for the purposes of the reserve;
- (2) adequate public notice in each affected area for the acquisition or disposal of water rights; and
- (3) that the office of the state engineer transfer procedures shall be followed.

J. The interstate stream commission shall annually report to the appropriate committee of the legislature on the status of the strategic water reserve.

HISTORY: Laws 2005, ch. 175, § 1 and Laws 2005, ch. 182, § 1; 2007, ch. 31, § 1.

NOTES:

STATUTORY NOTES

THE 2007 AMENDMENT, effective July 1, 2007, in Subsection A, in the fifth sentence, added "and to develop, construct, operate and maintain infrastructure for the delivery of water to the location of need", and in the ninth sentence, added "and may only condemn real property when that property is needed for infrastructure related to the conveyance of water"; and redesignated the last paragraph in Subsection C as Subsection D and redesignated subsections accordingly.