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## FISCAL IMPACT REPORT

SPONSOR: SCONC DATE TYPED: 03/04/01 HB \_\_\_\_\_  
 SHORT TITLE: Prohibit Otowi Gage Water Rights Transfers SB CS/SJM 2/aSFI#1  
 ANALYST: Dotson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
		None			

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in The General Appropriation Act Relates to HJM 6 and duplicates HJM 14.

### SOURCES OF INFORMATION

Office of the State Engineer

### SUMMARY

#### Synopsis of SFI#1 Amendment

The Senate Floor Amendment No. 1 adds language to clarify the delivery schedules of the Rio Grande Compact would not be adjusted.

#### Synopsis of Original Bill

This memorial resolves that the State Engineer be requested to formalize a policy of prohibiting water rights transfer from above the latitude of Otowi gage to below the latitude.

#### Significant Issues

According to the agency, there are two significant issues. One is to further discourage transfers of native Rio Grande water rights in northern New Mexico, above the Otowi gage, to water users in the Middle Rio Grande. The other issue arises from the technical requirements of the Rio Grande Compact. New Mexico's annual obligations to deliver Rio Grande water to below Elephant Butte Dam are based on the annual flow of water past the Otowi gage. The compact provides that New Mexico is entitled to continue annual depletions of water upstream from the Otowi gage that existed in 1929, when the compact was negotiated. The compact also requires

that adjustments be made to the Otowi gage readings to reflect changes from the depletions that

occurred in 1929. No such adjustments have ever been made.

### **PERFORMANCE IMPLICATIONS**

None, according to the State Engineer. This memorial would add some weight to the Office of the State Engineer's long standing policy.

### **FISCAL IMPLICATIONS**

The reduced flexibility in statewide water planning activities could possibly negatively effect New Mexico's future economic development options.

### **ADMINISTRATIVE IMPLICATIONS**

According to the agency, preserving the status quo by not passing this memorial would not affect current water administration by the Office of the State Engineer.

### **CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP**

This memorial is similar to HJM 6 and duplicates HJM 14.

HB 113 and HB 114 are introduced appropriations for statewide water planning and implementation activities. The results of the regional water plans could conflict with SJM 2, HJM 6 and HJM 14.

According to the agency in analyzing HB 114, New Mexico's growth and desert climate require active management of its water resources. Planning is a dynamic process and must continue. Regional water plans are needed to specify implementing programs and alternatives that actively manage the region's water resources.

### **OTHER SUBSTANTIVE ISSUES**

According to the State Engineer, New Mexico is required by the Rio Grande Compact to deliver to below Elephant Butte Dam between 57% and 100% of all marginal increases in annual flow at the Otowi Gage. In a high water year, 100% of any additional water must be delivered by New Mexico to below the dam. In the event that depletions of Rio Grande water in Northern New Mexico were to decline as a result of non-use and non-transfer of existing water rights, and extra water flows across the Otowi Gage, then New Mexico would have an additional burden of delivering that water if the compact delivery schedules were not adjusted. However, given that there are no circumstances which would suggest that New Mexico's long-term water use in the Northern Rio Grande system will be below the 1929 depletion limit, New Mexico has not sought and does not believe it would be desirable to pursue, the complicated interstate process that would be required for any schedule adjustment. Thus, both the desire to inhibit wholesale transfers of water rights from acequias and New Mexico's long-term water use expectations counsel for retaining the present prohibition on water rights transfers across the Otowi gage.

PD/njw:ar