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FISCAL IMPACT REPORT

ORIGINAL DATE 2-8-07

SPONSOR Garcia, M.J. LAST UPDATED _____ HB _____

SHORT TITLE Ecological Restoration of the Rio Grande SB SM13

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Environment Department (NMED)
Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

Senate Memorial 13 identifies the prevailing ecological degradation of the Rio Grande through southern New Mexico and the lack of water available for ecological restoration because of court settlements and compact delivery obligations. This memorial calls for voluntary transfers of water rights to support restoration efforts.

SIGNIFICANT ISSUES

EMNRD indicates that the Forestry Division is playing a significant role in the ecological restoration of the Rio Grande through its Los Lunas Inmate Work Crew (IWC) and Socorro District Office efforts to control exotic riparian trees and reclaim the riparian cottonwood/willow forest. Thus far, the EMNRD-Forestry efforts to restore riparian Bosque have not required the acquisition of water, or a water right. Our restoration efforts with government landowners involve the removal of exotic weeds and the seeding or planting of native vegetation without the

use of irrigation. Further, the agency's State Parks Division is also increasing its role and ecological restoration efforts along the lower Rio Grande. State Parks owns or manages seven properties along the Rio Grande between Elephant Butte and Las Cruces, all of which present significant ecological restoration needs and opportunities. At Mesilla Valley Bosque State Park, for example, State Parks must maintain restored wetlands and the Division will be initiating a long-term Bosque restoration program. Some restoration projects that irrigate plantings or create off-channel impoundments or wetlands do require the temporary or permanent acquisition of a water right. State Parks is pursuing the acquisition and/or transfer of water rights along the lower Rio Grande to benefit Mesilla Valley Bosque State Park and possibly other SPD-managed sites.

EMNRD adds that many stakeholders are working to restore riverside ecosystems along the lower Rio Grande, but cannot do so without water and rights to that water. Acquisition of water and water rights for restoration purposes is complicated by lack of available rights, competition from other buyers, difficulties with appraisals, and administrative structures related to water management that discourage, intentionally or not, transfer and use of water for restoration purposes. Elephant Butte Irrigation District has helped State Parks by devising ways to obtain water rights and water, and to accomplish restoration within the existing water framework, but institutional obstacles remain. Encouragement from the Senate may help stakeholders overcome some of these obstacles on a voluntary basis.

NMED notes that restoring the health of the lower Rio Grande ecosystem would provide many benefits, including ensuring a clean and sustainable water supply for all water users in the region, preserving the natural heritage of the area and helping to avoid additional endangered species listings. Restoration projects generally require available water. NMED observes that, as stated in SM13, the lower Rio Grande is fully appropriated, and therefore no water rights are currently available for use in restoration projects. Additionally, mechanisms for water acquisition provided by the Strategic Water Reserve are not applicable to the lower Rio Grande for a variety of reasons. Therefore, any water that could be made available for ecosystem restoration projects would most likely come from voluntary transfers of water including purchase, lease and donations or water and water rights.

PERFORMANCE IMPLICATIONS

EMNRD suggests that the memorial may benefit the Forestry and State Parks Divisions' efforts to work with local government entities and agencies on the lower Rio Grande, if it stimulates additional Bosque restoration efforts that are suitable for our programs.

ADMINISTRATIVE IMPLICATIONS

ENMRD indicates that State Parks seeks to acquire water rights to support wetland and riparian restoration efforts at its parks along the lower Rio Grande, and that this task would likely become easier if SM13 is passed.

OTHER SUBSTANTIVE ISSUES

NMED notes that SM13 implies that water rights are needed in order to plant trees as part of a restoration effort. However, the Office of the State Engineer has determined that water rights are not required for watershed projects that restore native vegetation, including planting native tree species.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

EMNRD concludes that voluntary ecosystem restoration efforts in the lower Rio Grande will not be formally encouraged through legislation.

BFW/nt