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## FISCAL IMPACT REPORT

SPONSOR: Vigil DATE TYPED: 01/26/01 HB HJM 14  
 SHORT TITLE: Prohibit Otowi Gage Water Rights Transfers SB \_\_\_\_\_  
 ANALYST: Dotson

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HJM 6.

### SOURCES OF INFORMATION

Office of the State Engineer.

### SUMMARY

#### Synopsis of 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 affect 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.

**TECHNICAL ISSUES**

According to the agency, The recital on page 2, lines 7-9 is technically incorrect. The phrase "without adjustment of the delivery schedules of the Rio Grande Compact." should be added after "...gage" to make it technically correct.

**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.

Amendments - According to the agency, Amend the memorial to add the additional phrase to the recital on page 2, lines 7-9.

PD/ar