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## FISCAL IMPACT REPORT

SPONSOR: Altamirano DATE TYPED: 02/23/01 HB \_\_\_\_\_  
 SHORT TITLE: Expenses of Amalia & Costilla Acequias SB 760  
 ANALYST: Chabot

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
	\$ 500.0			Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files  
 Amalia and Costilla Acequia Associations  
 Office of the State Engineer (SEO)

No Response  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

This bill appropriates \$500.0 from the general fund to DFA for the purpose of funding administrative, legal and engineering services for the Amalia and Costilla area acequias to resolve disputes arising between the state political subdivisions and the state of Colorado over the Costilla Creek Compact. Specifically, the following acequias or ditches are involved: the Association Ditch, Acequia Madre Ditch, Cerritos Number 1 and Number 2 Ditch, Acequia Plaza del Arriba, Gonzalez Ditch, Acequia de la Plaza del Medio, Acequia de Juan Jose Santistevan, David Martinez Ditch, Acequia M.E. Trujillo/Arrellano Ditch, Acequia del Penasquito, J.M. Barela Ditch, Sanchez Ditch, Trujillo Ditch, A.J. Arrellano Number 1 Ditch, Gary Little Ditch, and Herrera Ditch.

#### Significant Issues

The Costilla Creek Compact is an interstate compact between New Mexico and Colorado which apportions the waters of the Rio Costilla stream system between water users in New Mexico and Colorado. The governing body of the compact is the Costilla Creek Compact Commission (CCCC) of which SEO is a member. SEO and his watermaster are responsible for administering the Rio Costilla under the Compact.

Members of the various Amalia and Costilla area acequia and ditch organizations are concerned that SEO is allowing over-use of the available water and delivering too much water to Colorado. This a poor area of New Mexico and most of the water allocation was based on traditions rather than legal adjudications. They are concerned about the complexity of the CCCC manual and the daily-use spreadsheets produced by the Watermaster. Their analysis is that the implementation of the manual has violated the compact by requiring delivery of water to Colorado during the pre-irrigation storage season in excess of Colorado's allocation under the compact.

Prior to the operations manual, the annual counting was accomplished through a process which used a weekly "Sunday low" as the benchmark for direct flow. The acequia associations claim that this accounting method resulted in "no substantial over or under delivers...for over fifty years." They contend that switching to the new method has resulted in over-deliveries to Colorado at their expense.

According to the acequia associations, they expressed their concerns to SEO at the past three annual meeting but this has resulted in no direct action to remedy their concerns. They state they were advised by SEO to hire an attorney and take legal action. The acequias are requesting an appropriation because they can not afford the legal costs on their own.

On the other hand, the SEO analysis states "Meetings in 2000 have concluded with substantial progress and resolution of specific disagreements but have been followed with highly critical correspondence from the RCCLA [Rio Costilla Cooperative Livestock Association]. An appropriation to New Mexico water users to deal with these issues through litigation will be harmful and is opposed by the New Mexico State Engineer and the New Mexico Interstate Stream Commission."

According to SEO, waters of the Costilla Creek are fully adjudicated and are distributed in accordance with these water rights and the Costilla Creek compact between New Mexico, Colorado and the United States Congress. The watermaster, who is an employee of the Interstate Stream Commission, controls water distribution to numerous water users in New Mexico. The RCCLA owns most of the acequia water rights in the area. The CCCC has developed an operations manual and the Watermaster provides a daily accounting spreadsheet of water use.

According to SEO, there are three unresolved issues:

1. Water diversion to the Eastdale Reservoir in Colorado. These diversions are the focus of strong demands by New Mexico water users and they desire that New Mexico impose limits of this Colorado water diversion;
2. Accounting for water losses associated with interstate deliveries of water on Costilla Creek; and
3. Junior water rights holders in the Amalia area needing to obtain Costilla Reservoir water rather than direct flow water during dry seasons.

SEO states that a result of having a new watermaster, the operations manual, and controlling over-deliveries to Colorado, they have increased the available water to New Mexico users by over 2,400 acre feet during the 2000 calendar year, a very dry year. This number may grow during wet years.

## **FISCAL IMPLICATIONS**

The appropriation of \$500.0 contained in this bill is a recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of fiscal year 2003 shall revert to the general fund. However, SEO states if the appropriation results in a law suit with Colorado and the

SEO enters as a litigant, there will be additional costs to the state for that litigation. They state that three additional full-time equivalent employees will be needed to respond to the issues that will result from this appropriation.

**ADMINISTRATIVE IMPLICATIONS**

DFA will have to establish procedures for reimbursing the specified acequia and ditch associations based on approved expenditures.

**POSSIBLE QUESTIONS**

1. Can the issues with New Mexico water users be resolved through mediation efforts?
2. What is the best method to build and improve consensus among the ditch and acequia owners and the SEO on the best management practices for use New Mexico's share of the water from the Costilla Creek?
3. What do the ditch and acequia owners expect to gain from this appropriation?

GAC/ar