

supply; the drilling of replacement wells, the assumption of additional operating costs; the procurement of documentation establishing a waiver of protection by owners of the affected water rights; artificial recharge; or any other means to avoid impairment of those rights.

Synopsis of HFI#1 Amendment

The House Floor #1 amendment to House Bill 201 provides that all diverted groundwater incident to the development of geothermal resources be reinjected “as soon as possible.”

Synopsis of HENRC Amendment

The House Energy and Natural Resources Committee amendment to House Bill 201 specifies that a water rights owner is authorized to bring a “de novo,” rather than a “new,” action for damages or for injunctive relief with respect to any claimed impairment of existing water rights due to the development of geothermal resources.

Synopsis of Original Bill

The House Energy and Natural Resources Committee substitute for House Bill 201 amends the Geothermal Resources Conservation Act to provide conditions under which a permit from the Office of the State Engineer (OSE) is not required for the use of groundwater over 250 degrees Fahrenheit as an incident to the development of geothermal resources. Specifically, these conditions require that:

- the use does not require any diversion of groundwater;
- all diverted groundwater is reinjected into the same groundwater source from which it was diverted resulting in no new net depletions to the source; and
- no groundwater right is established through the use of the groundwater.

HB201/HENRC also creates a new section of the Geothermal Resource Conservation Act to permit any water rights owner to bring an action in the district court of the county in which the water rights are located for damages or for injunctive relief with respect to any claimed impairment of existing water rights due to the development of geothermal resources.

FISCAL IMPLICATIONS

HB201/HENRCS makes no appropriation. The OSE notes that the bill would not have a fiscal impact on the agency.

SIGNIFICANT ISSUES

The bill would create criteria under which certain uses use of geothermal reservoirs would be exempted from the requirement to acquire a water right from the OSE. The OSE reports that HB201/HENRCS would make explicit that, where the geothermal resource to be developed is groundwater, permits from both the Oil Conservation Division of the Energy, Minerals and Natural Resources Department and the OSE are required, except:

- where there is no diversion of groundwater;

- where all diverted groundwater will be reinjected into the same groundwater source from which it was diverted resulting in no new net depletions to the source; and
- where no groundwater right is established through the use of groundwater.

The bill also provides for recourse for water rights owners who claim their water rights are impaired as a result of the development of geothermal resources.

ADMINISTRATIVE IMPLICATIONS

HB201/HENRC could reduce the administrative burden on the Water Resource Administration Program of the OSE, as it would not be required to process water right applications for the uses specified in the bill.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB 190 is similar to HB201/HENRCS.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Geothermal resource development that requires drilling of a well would continue to require a permit from the OSE.

PvM:MD/amm:svb