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FISCAL IMPACT REPORT

SPONSOR Larrañaga **ORIGINAL DATE** 01/21/13
LAST UPDATED _____ **HB** 82
SHORT TITLE Replacement Water Well Procedures **SB** _____
ANALYST McCoy

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer (OSE)

SUMMARY

Synopsis of Bill

House Bill 82 (HB82) amends Section 72-12-22 NMSA 1978 by eliminating emergency authorization to drill a replacement well, within 100 feet of the original, prior to filing an application with the Office of the State Engineer. HB82 also requires an application prior to drilling and requires a permit to be issued upon finding no impairment without publication of notice of application. In addition, the amended language in HB82 requires plugging, not just capping, of the old well. The applicant's right to a hearing is preserved, where the applicant has provided public notice of the application and the opportunity to protest.

FISCAL IMPLICATIONS

No Fiscal Impact.

SIGNIFICANT ISSUES

Currently, Section 72-12-22 NMSA 1978 allows an applicant to drill a replacement well prior to filing an application with the Office of the State Engineer, yet requires publication and allows protests that require hearings even though the application cannot be denied. The existing law prohibits owners of other wells from enjoining the drilling of or the use of water from the replacement well, and limits their actions to recovery of damages and the protest of the granting

of the permit from the Office of the State Engineer. The proposed amendment would allow the State Engineer to determine whether the proposed replacement well would impair existing water rights before the well is drilled and costs are incurred by the applicant. Finally, requiring the plugging, not just capping, of the old well will eliminate a potential safety hazard and safeguard the integrity of the water bearing aquifers to protect water quality.

ADMINISTRATIVE IMPLICATIONS

The requirement to file an application with the Office of the State Engineer prior to drilling the well will allow agency staff to make the newly required determination regarding impairment before resources are expended by the applicant, the Office of the State Engineer, or a protestant, potentially reducing appeals of ex post facto decisions.

MTM/svb