



**SPONSOR:**

**BILL:** \_\_\_\_\_

## **Introduce a legislative memorial requesting state funding for the Interstate Stream Commission, Regional Water Planning Activities**

As a result of financial ambiguity with respect to state-level funding for regional water planning, the New Mexico Water Dialogue through and with the support of the Bernalillo County Water Resources Program (within Bernalillo County Public Works) is urging that the Legislature take action to support state funding for regional water planning in this legislative session. Specifically, the Water Resources Program is requesting support of the statewide legislative initiative to pass a budget for the Interstate Stream Commission that includes a call for a recurring budget item of an additional **\$400,000** for the update of four regional water plans each year.

The New Mexico Legislature in 1987 (N. M. Stat. Ann. 72-14-43) determined that “the future water needs of New Mexico can best be met by allowing each region of the state to plan for its water future” and also determined that “the state can assist the regions in planning future water use by implementing a state appropriation program to ensure an adequate supply of water for each region”. The mandate for New Mexico’s Regional Water Planning Program came from legislation developed and adopted in 1987 (N. M. Stat. Ann. 72-14-44, 1993 Cum. Sup.) pursuant to findings in *City of El Paso ex. rel. Pub. Serv. Bd. v. Reynolds*, 563 F. Supp. 379 (D.N.M. 1983) and 597 F. Supp. 694 (D.N.M. 1984).

Statewide, the various regional water plans were drafted by many local organizations and represent collaborative strategies to address water needs. The first regional water plan was completed and accepted by the Interstate Stream Commission in 1999 (the Estancia Basin Regional Water Plan) and the last regional water plan was completed and accepted by the Interstate Stream Commission in 2008. Bernalillo County is addressed under two regional water plans: The Middle Rio Grande Regional Water Plan, adopted in 2004 (AR 12-2004) prepared through the Mid-Region Council of Governments by the Middle Rio Grande Water Assembly, and the Estancia Basin Regional Water Plan, first adopted in 1998 (AR 115-1998) and last updated and accepted by Bernalillo County in 2010 (AR19-2010).

**Current Financial Status of Regional Water Planning:** Although the 1987 legislative action called for continued funding, assistance for regional water plans, only limited and sporadic assistance has been made available from the Interstate Stream Commission due to a lack of state appropriations being allocated and approved during the legislative process. As a result, the various regional water planning entities across the state do not

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routinely receive state funding to perform planning activities or to implement existing water plans. Even ISC's own staffing for regional water planning has been significantly curtailed in recent years. As a result of this problematic funding approach, many of the regional planning bodies are inactive and/or lack sufficient funding to begin implementation activities.

Without adequate funding, planning, and demonstration of implementation of the regional water plans, the conditions stated in the original court rulings (*City of El Paso ex. rel. Pub. Serv. Bd. v. Reynolds*,) might be insufficient to withstand a second court challenge from out-of-state appropriators. Such a challenge is upon us now, with the State of Texas recent filings with the U.S. Supreme Court. Those earlier rulings stated that if New Mexico wished to prefer its own citizens over an out of state appropriator, there had to be a showing of the supply of water available within the state of New Mexico (or a region), the water demands within the state of New Mexico, whether shortages existed within the state of New Mexico, and whether supplying water from particular sources was relevant or feasible. (See N. M. Stat. Ann. 72-12B-1, 1985 Repl. Pamp.). The legal defensibility of outdated and unimplemented plans could be a determining factor in such rulings.

Similar to what occurs in Bernalillo County, the regional water planning entities are currently dependent on in-kind support from local governmental agencies, local government budget support, and on solicitation of grant funding from private, state and federal agencies. In the case of Bernalillo County, there are no formal agreements between Bernalillo County and the two regional water planning entities. Bernalillo County relies solely on the Mid-Region Council of Governments to coordinate, implement, and update the Middle Rio Grande Regional Water Plan, and the County provides only informal in-kind support for the efforts of the Estancia Basin Water Planning Committee (EBWPC). Historically, in-kind support is provided through the services of Water Resources Program staff serving as Bernalillo County's governmental representative on the EBWPC. While no monies are owed either to or from respective water planning entities within Bernalillo County, appropriately scaled in-kind contributions are only a piece-meal approach to address a local issue that is representative of a larger state-wide concern.