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**INSTREAM FLOWS IN NEW MEXICO**

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**ABSTRACT:** New Mexico is the only state in the Colorado River Basin that does not explicitly recognize the use of water to support natural functions as a beneficial use of water. Some have lamented that dedicating water to in-stream flows or other ecological functions may actually be illegal in New Mexico. This is not true. While New Mexico has yet to follow the pathways taken by other states to protect water for the environment, close examination reveals that legally recognized ecological water use has been accomplished through a variety of mechanisms in the Land of Enchantment. Nonetheless, a consistent, comprehensive State driven approach is still needed. Instream flows in New Mexico have largely been motivated by federal legal requirements. Water deliveries on New Mexico's largest rivers are governed by Biological Opinions, issued by the U.S. Fish & Wildlife Agency. Inclusion of reaches of New Mexico rivers in the National Wild and Scenic Rivers System has allowed the federal government to claim reserved water rights for environmental flows sufficient to meet the purposes of the wild, scenic or recreational designation. The federal government has also claimed reserved water rights to fulfill the purposes of National Wildlife Refuges in New Mexico. Under State law the State Engineer has authorized the storage of water for environmental flows in reservoirs on both the Rio Grande and the Pecos River. The State Engineer has also issued water right permits to the New Mexico Interstate Stream Commission, both for the beneficial use of water for endangered fish and to assist in making interstate compact deliveries. Moreover, The Interstate Stream Commission has acquired ground-water rights, which it leases to the U.S. Bureau of Reclamation for endangered fish flows. This presentation challenges the commonly held assumption that instream flows cannot be achieved in New Mexico, while recognizing that mechanisms commonly used to do so in other states have not been widely utilized here.