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FISCAL IMPACT REPORT

SPONSOR:	Wilson	DATE TYPED:	02/05/00	HB	
SHORT TITLE:	Fish Passage Structures			SB	388
				ANALYST:	Pickering

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
	\$ 2,000.0		Indeterminate	Nonrecurring	IWCF

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Department of Game and Fish (DGF)

Office of the State Engineer / Interstate Stream Commission (OSE/ISC)

SUMMARY

Synopsis of Bill

SB388 appropriates \$2,000.0 from the irrigation works construction fund (IWCF) to ISC for a multi-fiscal year expenditure in FY2001 and FY2002. The bill calls for construction of 1) fish passage structures at diversion dams to promote migration of state-listed endangered and, 2) screens to prevent the introduction of endangered species into delivery channels. Any unexpended or unencumbered balance remaining at the end of FY2002 shall revert to the IWCF.

Significant Issues

According to DGF, the projects outlined in the bill are essential to the recovery of the Rio Grande silvery minnow from Cochiti Dam downstream to Elephant Butte Reservoir. ISC reported that it has begun to address these issues by recently signing a memorandum of understanding (MOU) with three federal agencies, three state agencies, the City of Albuquerque, the Middle Rio Grande Conservancy District (MRGCD), a coalition of environmental groups and a business group.

Over the next year, the MOU commits the signatories to outline their respective responsibilities and develop a program for implementation aimed at preventing extinction of the silvery minnow, while maintaining economic uses of the water in the middle Rio Grande. Since ISC's FY2001 budget request includes \$400.0 in funding to support this collaborative effort, the bill's appropriation may be unnecessary in the coming year. However, state support may be needed in FY2002. Additionally, ISC noted a need may exist for constructing fish screens, but that there are still questions regarding fish passage structures around diversion dams for the silvery minnow.

FISCAL/ADMINISTRATIVE IMPLICATIONS

ISC contends an appropriation of this size would prevent it from using the IWCF to address other critical needs such as adjudications and hydrographic surveys in the lower Rio Grande. As for administrative needs, the agency addressed these in its FY2001 budget request through the collaborative effort.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

Although the appropriation in SB388 differs from ISC's budget request, the bill duplicates current program activities already prescribed by the agency.

SUBSTANTIVE ISSUES

Fish Passage Structures

According to DGF, the construction of fish passage structures is one of six priority 1 implementation tasks outlined in the *Rio Grande silvery minnow Recovery Plan*. As such, it is considered to be an essential component for the recovery of the fish in the middle Rio Grande. However, ISC is unsure whether these structures would work for a minnow that may or may not have a strong motivation to swim upstream against strong currents. ISC believes that many technical issues need to be resolved regarding the design type and efficiency of structures required for protection of the silvery minnow.

Similarly, DGF reported that while fish passage is considered essential to the recovery of the species, their construction may not lead to the recovery of the fish. Also, while it appears technically feasible to design fish passage structures to allow the minnow to swim upstream, it has not been unequivocally demonstrated that the minnow will use them.

Presently, irrigation diversion dams in the middle Rio Grande do not allow fish to move upstream. Fish, eggs and larval fish that get carried downstream over irrigation diversion structures in high flow events, remain below these diversions. This has led to the current situation where most known adult silvery minnow cannot pass the diversion structures to recolonize in the upstream reaches of the Rio Grande. DGF maintains the fish are at risk due to the de-watering of the river from MRGCD operations.

Fish Screens

According to DGF, silvery minnow eggs and larvae are very small, which makes it challenging to design a system that will effectively stop them from being pulled into irrigation systems. While a combination of screens and flow diversion structures may significantly reduce the capture of eggs and larvae, construction of screens may not guarantee the recovery of the fish.

Still, the agency maintains the importance of investigating fish screens in order to determine its feasibility.

However, DGF speculated whether SB388 allowed for appropriated monies to be spent on consultation, design and feasibility studies before project implementation. By these means, money could be spent more wisely rather than on impractical projects.

CONSEQUENCES OF NOT ENACTING THIS BILL

The consequences of not implementing SB388 are unknown and depend in part on what other management actions are undertaken to protect the silvery minnow. While both DGF and ISC provided analysis on the bill, each has different views regarding its merit. Rather than pass SB388, ISC insisted that significant progress will be made on the issue if the agency's budget request is funded.

However, DFG expressed concern that the silvery minnow will not recover unless action is taken to allow for the upstream migration of the species into the upper reaches of the Rio Grande. One alternative proposed by ISC is to amend SB388 by adding language to specify that the appropriation is contingent upon the federal match. The agency reported that significant federal monies are available with a ratio of three federal dollars for every state dollar.

RWP/gm