F I S C A L I M P A C T R E P O R T

SPONSOR SRC **DATE TYPED** 2/15/04 **HB**

SHORT TITLE Involve Water Rights Settlement Stakeholders **SB** SJM 62/SRCS

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	NFI		See Narrative	Recurring	General Fund

Relates to SJM 25 and HJM 43

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)
Office of Indian Affairs (OIA)
State Engineer's Office (SEO)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 62 requests the State Engineer's Office (SEO) and the Interstate Stream Commission (ISC) to include all the stake holders in the potential settlement of water rights of the Navajo Nation.

The memorial requests the SEO and the ISC to develop a comprehensive water management plan to ensure equitable distribution of all Indian and non-Indian waters within the San Juan basin.

The SEO is requested to delay the implementation of the proposed settlement for at least six months so stakeholders can obtain all the necessary information they need from the SEO and the ISC to analyze the proposed settlement's effect on existing water rights.

A report is to be made to the appropriate interim committee of August 30, 2004.

Significant Issues

The SEO notes:

- With this memorial, if passed, the legislature is communicating to the SEO and the ICC its desire to be informed on those matters specifically identified, as well support for these settlement efforts.

- The legislature's requests are consistent with the SEO and ISC's efforts, since they are necessary for the State to enter into a settlement of this nature. The SEO appreciates the collective interest of legislature to be informed on the opportunity that this proposed settlement presents.

The OIA states:

- **Joint Memorial Moot:** The SEO has already investigated, analyzed and taken public testimony on how the settlement will affect the stakeholders in the San Juan River basin. The ISC has developed a depletion schedule within the basin and the ISC has approved a regional plan for the San Juan basin that includes the major settlement components.

- **Timeline:** The memorial may make it more difficult for New Mexico to have the settlement enacted into law by Congress. The timeline for passing this through Congress may be influenced by major water issues in Arizona and California.

- **Number of Claimants:** There may be close to 20,000 claimants within the San Juan river basin, but it is not clear who all the stakeholders are in the basin. The SEO is in the process refining and cross referencing this data. Determining who all the stakeholders will significantly delay the settlement and may diminish the possibility of settlement as well as increase costs to the process.

- **Public Participation:** The basic components of the settlement have been discussed at public meetings for a number of years. The general components of the settlement were discussed at public meetings which resulted in the regional water plan that was approved by the ISC in December 2003. In addition, NEPA compliance required that the U.S. Bureau of Reclamation conduct public meeting on the Navajo Gallup Water Supply Project in the basin—some of these meeting were held in such areas as Farmington.

- The involvement of non-native stakeholders should not result in affording more due process right to one group. As stated above the non-native stakeholders were provided with opportunities for public comment on the settlement issues in the San Juan basin. The memorial should not result in non-native stakeholders being equated with Indian tribal governments when it comes to the settlement process. The federal government and the state government have legal obligations to consult with Indian governments.

FISCAL IMPLICATIONS

A failure to resolve these issues by way of settlement may result in significantly higher costs to the State if the courts are looked to for rights and liability determinations.

RELATIONSHIP

SJM 62 relates to HJM 43 and SJM 25

DW/prr:lg:yr