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FISCAL IMPACT REPORT

SPONSOR Munoz ORIGINAL DATE 2/2/18
 LAST UPDATED 2/14/18 HB _____

SHORT TITLE No Permit for Augustin Plains Ranch Water SM 30/aSCONC

ANALYST Amacher

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

SUMMARY

Synopsis of SCONC Amendment

The Senate Conservation Committee amendment to the title of Senate Memorial 30 makes clear this memorial asks the office of the State Engineer to refrain from issuing a permit to Augustin Plains Ranch Limited Liability Company to appropriate fifty-four thousand acre-feet of water *until input is received from specified parties*.

Synopsis of the Memorial

Senate Memorial 30 asks the State Engineer to refrain from issuing a permit to Augustin Plains Ranch LLC, to appropriate 54,000 acre-feet of water until the voices and concerns from many communities, agencies, and individuals affected by the proposed drilling have been heard.

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

SM 30 as amended asks the State Engineer to refrain from issuing a permit to Augustin Plains Ranch LLC, to appropriate 54,000 acre-feet of water until the voices and concerns from many communities, agencies, and individuals affected by the proposed drilling have been heard.

Specifically the voices and concerns of the Navajo Nation; the Pueblos of Acoma, Isleta, Santo Domingo, Sandia and Santa Ana; Catron, Socorro and Sierra counties; the city of Socorro; the village of Magdalena; the United States forest service; the federal Bureau of Reclamation; the federal bureau of Indian affairs; the federal Department of the Interior; the United States Fish and Wildlife service; the federal Bureau of Land Management; the University of New Mexico; the National Radio Astronomy Observatory; several acequia associations; and many individuals who would be directly affected by the proposed drilling.

As noted in the memorial, Augustin Plains Ranch LLC intends to market water to municipalities and the state by using 54,000 acre-feet of water annually from thirty-seven wells in the Plains of San Agustin near Datil, New Mexico. Approximately 900 protests were filed with the Office of the State Engineer's administrative hearing unit in response to the permit application. This first permit was denied by the OSE for various reasons. Augustin Plains Ranch LLC appealed in district court and lost. Efforts in the New Mexico Court of appeals were dismissed as moot as a new application was then before the OSE for review.

The memorial explains that the second application is currently in review and has already received approximately 600 protests. There is concern that because the OSE does not have a clear and concise definition of "impairment" when reviewing water rights applications senior water users have no assurance of the impact a new application may or may not have. The memorial further notes the area of the proposed drilling, where agriculture is the largest sector of the economy, does not receive enough rainfall to replenish the aquifer. Additional depletion would be exceptionally harmful.

OTHER SUBSTANTIVE ISSUES

The Indian Affairs Department (IAD) notes that there is no mention of marketing to tribes, yet tribes are protesting the proposed project. Datil is near the Alamo Navajo Reservation with a population of almost 2,000. Acoma Pueblo has a population of 2,712 and the Ramah Navajo Indian Reservation has a population of 2,167. These communities could be potentially impacted by the proposed drilling due to cultural and traditional significance.

As provided by IAD, the Federal Bureau of Indian Affairs (BIA) is among the six hundred protestors who filed in opposition to the issuance of the permit. However, the U.S. Department of Interior had opposed the application initially and as of May 2017, they withdrew their protest. The IAD states this demonstrates a potential impact as the BIA is an agency within the U.S. Department of Interior and it may not be necessary to list the BIA as current protester in this memorial.

This application is currently in the hearing process with the OSE and the state engineer cannot take a position on this memorial.

JMA/jle