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### FISCAL IMPACT REPORT

SPONSOR:	Lujan	DATE TYPED:	02/10/00	HB	415
SHORT TITLE:	Comply With Court Orders In Aamodt Case			SB	
				ANALYST:	Pickering

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
\$ 501.0	Remainder of FY00 amount		See Fiscal Narrative	Nonrecurring	General

(Parenthesis ( ) Indicate Expenditure Decreases)

#### SOURCES OF INFORMATION

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

#### SUMMARY

### Synopsis of Bill

HB415 contains an emergency clause and appropriates \$501.0 in general fund for expenditure in FY2000 and FY2001 to OSE for contracting necessary services to comply with court orders issued in the adjudication of the Nambe-Pojoaque-Tesuque ("NPT") basin, also known as the Aamodt case.

### Significant Issues

According to OSE, the appropriation is essential to ensure the state can establish a metering and monitoring system within the NPT basin. In April 1998, a federal court ordered such a metering system be created, and more recently, the state just concluded a settlement with the pueblos which was also entered and approved by federal court order to lift restrictions on outside uses from domestic wells. Restrictions on outside uses had been imposed by the federal court in 1983 at the request of the pueblos partly because no monitoring system was in place.

Additionally, OSE reported that the domestic well moratorium imposed by the court limited domestic well uses to strictly indoor uses. The metering and monitoring system now required by the court will assure that its orders can be implemented and will assure administration of the basin will be conducted in a manner that does not impair the pueblos' water rights. Without such a system, the agency believes that further restrictions could result on non-Indian domestic well uses, as well as restrictions on water for irrigation.

### **FISCAL IMPLICATIONS**

OSE stated that without the \$501.0 appropriation, the state will be forced back into litigation on the effect of non-Indian uses of senior Indian rights which would result in delay, uncertainty and higher costs than the subject appropriation.

### **ADMINISTRATIVE IMPLICATIONS**

The agency expects no additional staffing for its legal services division

## **SUBSTANTIVE ISSUES**

OSE contends the emergency clause may not be needed as this appropriation will likely be spent in FY2001. Hence, the agency recommended the bill be amended to delete the emergency language and to authorize expenditures in FY2001 and FY2002.

The appropriation will be used for the following: 1. water level measurements at selected existing wells; 2. construction, equipping and monitoring of two new deep observation wells and; 3. construction, instrumentation and operation of new flumes for surface water diversions at selected locations. The agency reported total costs of \$495.0 for these three components, as the purchase of capital equipment and the start of well drilling should begin in FY2001.

If HB415 is not enacted, OSE anticipates the federal court to initiate strict controls to avoid having to declare an emergency priority call. In 1996, a priority call was made by the pueblos in the NPT basin. Without the subject funds, the agency feels there will be no opportunity to assess the effects of future groundwater development, which would include a regional water supply for the area. Consequently, this could adversely affect economic development in the region.

RP/njw