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FISCAL IMPACT REPORT

SPONSOR:	Macko	DATE TYPED:	02/11/00	HB	442
SHORT TITLE:	Petroglyph National Monument Property			SB	
				ANALYST:	Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
\$6,000.0*					

****House Bill 442 appropriates \$6,000.0 from the general fund for expenditures during fiscal years 2000 and 2001.***

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC files

Energy, Minerals and Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

House Bill 442 appropriates \$6,000.0 from the general fund to the Department of Finance and Administration (DFA) to pay the settlement costs of *D. W. Falls Investments v. State of New Mexico* and the costs related to acquiring the remaining private property taken by the states within the boundaries of the Petroglyph National Monument.

The bill contains an emergency clause.

Significant Issues

EMNRD reports that:

"In 1988 and 1989, the Legislature appropriated \$6 million to EMNRD to acquire real property within the boundaries of the Petroglyph Monument. In 1990, Congress enacted the Petroglyph National Monument Act to protect the West Mesa Escarpment near Albuquerque. In 1991, EMNRD, the city of Albuquerque and the National Park Service entered into a joint powers agreement (JPA) that required the city to acquire and manage the property for the Monument and required EMNRD to reimburse the city in an amount not to exceed \$6 million for property within the Boca Negra Unit." EMNRD also reports that all but \$84,000 of the appropriation have been expended to reimburse the city for purchases within the Boca Negra Unit.

Two of three lawsuits filed against the state alleging property was taken by inverse condemnation of property within the Monument have been settled. The third, *Falls et.al. Salisbury et.al*, No. CV 98-0001078 C is pending in state district court, and EMNRD denies that its actions resulted in inverse condemnation of the plaintiff's property.

Because there has been an eleven-year interlude since the first appropriation, it is difficult to estimate the cost of acquiring the remaining properties. The amount reflected in the bill appears to reflect appraisals completed ten years ago with percentage increases to reflect an appreciating market value.

"EMNRD believes the \$6 million figure would clearly be sufficient to settle the pending lawsuit and purchase the remaining properties."

FISCAL IMPLICATIONS

The bill appropriates \$6,000.0 from the general fund to DFA for expenditure in fiscal years 2000 and 2001. Any unexpended or unencumbered balance remaining at the end of fiscal year 2001 shall revert to the general fund.

ADMINISTRATIVE IMPLICATIONS

The JPA between DFA and the city of Albuquerque will have to be reviewed, and a new JPA may be necessary.

SUBSTANTIVE ISSUES

The bill states that private property was taken by the state (page 1, lines 22 & 23). The taking of property by inverse condemnation is the issue currently before the court. No decision has been rendered even though the case went to trial in December. EMNRD reports that the judge hearing the case has requested that additional briefs be filed.

Because the "taking of property" issues has not been settled. The phrase in the bill "taken by the state" could be construed as making a determination on the issue now before the court, and it should be removed from the bill.

MV/sb