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## FISCAL IMPACT REPORT

SPONSOR Aragon DATE TYPED 1/31/04 HB \_\_\_\_\_

SHORT TITLE Water Rights Settlement Participants SB SJM 25

ANALYST Maloy

### APPROPRIATION

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

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
Office of the State Engineer  
Office of Indian Affairs

### SUMMARY

#### Synopsis of Bill

Senate Joint Memorial 25 addresses the adjudication of the Navajo Nation water rights claims in the San Juan River adjudication. At this time, the state and the Navajo Nation have made public a draft of a settlement document resulting from 4 years of negotiations.

With this memorial, the legislature requests the state engineer “investigate, analyze and take public testimony on how the proposed settlement with the Navajo Nation will affect all stakeholders in the San Juan Basin” and “develop a comprehensive water management plan to ensure equitable distribution of all Indian and non-Indian waters within the San Juan Basin,” then “report progress and status to the appropriate interim committee by November 30, 2004.”

Significant Issues

**The Office of the State Engineer notes:**

- With this memorial, if passed, the legislature is communicating to the Office of the State Engineer and the Interstate Stream Commission 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 State Engineer and Interstate Stream Commission's efforts, as they are necessary for the state to enter into a settlement of this nature. The Office appreciates the collective interest of legislature to be informed on the opportunity that this proposed settlement presents.

**The Office of Indian Affairs states:**

- **Joint Memorial Moot:** The Office of the State Engineer has already investigated, analyzed and taken public testimony on how the settlement will affect the stakeholders in the San Juan River basin. The Interstate Stream Commission 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 Office of the State Engineer 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 IMPACT**

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.

**ALTERNATIVES**

The Office of the State Engineer offers:

- The practice of various interim legislative committees requesting presentations by the state engineer and interstate stream commission would be a satisfactory alternative should this memorial not pass.

**CONSEQUENCES OF NOT ENACTING THE MEMORIAL**

- According to the Office of Indian Affairs, the settlement of the San Juan River basin will proceed and will likely be enacted by Congress without delay.

**SJM/dm:lg**