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## FISCAL IMPACT REPORT

SPONSOR Begaye DATE TYPED 1/25/05 HB 14

SHORT TITLE Gallup-Navajo Pipeline SB \_\_\_\_\_

ANALYST Baca

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	\$8,400.0			Non-Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 126, Indian Water Rights Settlement Fund

Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the State Engineer/ISC (OSE/SIC)

New Mexico Environment Department (NMED)

### SUMMARY

#### Synopsis of Bill

House Bill 14 appropriates \$8.4 million from the general fund to the Interstate Stream Commission for expenditure in FY06 to initiate the Gallup-Navajo pipeline project. The appropriation in the bill is contingent on matching money being made available from the federal government.

#### Significant Issues

The OSE\ISC writes that:

“This Project has been proposed as the Navajo-Gallup Water Supply Project in the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement recently approved by the Navajo Nation Council and the New Mexico Interstate Stream Commission. It is not clear whether the purpose of this Bill is to provide a required state or local cost-share toward Federal expenditures relating to the Settlement Agreement.

The total cost of New Mexico's share of the Project would be \$25 million, indexed to 2004 dollars, contingent upon Congressional approval of the settlement as currently constituted. Federal budgets for fiscal year 2006 have been in process for some time. It is not likely that federal appropriations will be made this year. In addition, the Project will take twelve years to construct, and New Mexico may want to extend its cost-share funds over the construction period. Appropriations of funds for the project at this time, would indicate legislature support for the Settlement Agreement"

The NMED reports that funding for this project has been made from the Water Trust Fund through the Water Trust Fund Board. This bill would be a departure from the past practice of funding the project. The NMED further points out that the deadline for is the end of FY06, a very short deadline considering the complexity of the project and suggests it is likely more time will be needed to encumber the funds.

### **FISCAL IMPLICATIONS**

The appropriation of \$8.4 million contained in this bill is a Non-Recurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY06 shall revert to the general fund.

The OSE/ISC notes that additional appropriations will be needed to complete the project and implement the cost-share requirements of the Settlement Agreement. The project would be constructed over a period of at least twelve years, beginning as early as 2007 or 2008. The total construction cost of the project in 2004 dollars is estimated at about \$590 million, which under the Settlement Agreement would be funded primarily from Federal appropriations. The cost estimate includes about \$35 million to be paid in state and local gross receipt taxes.\

### **ADMINISTRATIVE IMPLICATIONS**

Administration of the project can be accomplished with minimal impact to the OSE/ISC.

### **RELATIONSHIP**

HB 14 relates to HB 126, Indian Water Rights Settlement Fund, which would establish a fund administered by the ISC to expend funds to implement terms approved Indian water rights settlements.

### **OTHER SUBSTANTIVE ISSUES**

New Mexico, the Navajo Nation and the federal government must complete the required steps prior to beginning construction of the Navajo-Gallup Water Supply Project. Consequently, the OSE/ISC state s, New Mexico's cost-share funding would not be required until the Bureau of Reclamation is ready to begin construction of the project making it likely the state's cost-share would be no be required until 2007 at the earliest.

### **ALTERNATIVES**

The OSE/ISC suggests the date for reversion be changed from the end of FY06 to some later date up to the end of FY20. Further, the OSE/ISC suggests that, if it is intended that this appro-

priation provide the cost share of the state relating to the Navajo Settlement, the appropriation could be made to the Indian Water Rights Settlement Fund.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?**

The OSE/ISC writes that:

“State funding of a portion of the Navajo-Gallup Water Supply Project costs will be required to implement the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement. The Settlement Agreement provides many important benefits to the Navajo Nation and non-Navajo water users in New Mexico. If implementation of the Settlement Agreement fails because New Mexico does not provide its required cost-share, years of litigation would result and Gallup and Navajo communities in New Mexico will continue to be without a dependable, renewable water supply. Again, this project and cost-share funding requirements remain predicated on Congress approving the Settlement Agreement and authorizing the project. The Settlement Agreement requires that such Congressional action occur and be signed into law no later than December 31, 2006.”

**AMENDMENTS**

The OSE/ISC proposes the following amendments:

- P.1, line 17, Add: “or the Indian Water Rights Settlement Fund, if established, after “commission.”
- P.1, line 18, Amend “year” to read “years.”
- P.1, line 18, Add: “and subsequent fiscal years” after “2006”.
- P.1, line 19, Add: “expenditure of the” after “The”.
- P.1, line 22, Add “a” after “of”.
- P.1, line 22, Delete “2006”.
- P.1, line 22, Add “not” after “shall”.

**LB/yr**