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FISCAL IMPACT REPORT

SPONSOR Marquardt DATE TYPED 2/21/05 HB HM 34

SHORT TITLE Surface Values in Energy Development Laws SB _____

ANALYST Wilson

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
			NFI		

Relates to HB 1015

SOURCES OF INFORMATION

LFC Files

Responses Received From

Energy, Minerals & Natural Resources Department (EMNRD)

SUMMARY

Synopsis of Bill

House Memorial 34 calls upon the New Mexico congressional delegation and the United States Department of the Interior to support legal and administrative reform to protect the rights of surface owners and decrease the surface damages done during energy development.

Significant Issues

The memorial identifies the following issues:

- The mineral and energy production and transmission industries provide substantial revenue to, as well as jobs and economic development in, New Mexico and the United States;
- The continued responsible development of our nation's natural resources, with a commitment to environmental and property rights protection, is necessary to meet the nation's energy needs;
- Exploration for and development, production and transmission of mineral and energy resources can result in damage, lost value and loss of uses of other real property and sur-

face resources;

- It is necessary to protect the public welfare, which is also dependent on these other values and resources, and it is necessary to protect the economic well-being of the owners and users of such real property and surface resources;
- An executive order of August 26, 2004 instructs federal agencies to take "appropriate account of and respect the interests of persons with ownership or other legally recognized interests in land and other natural resources" in their implementation of laws relating to natural resources; and
- Owners of surface resources should be fully compensated for injury to their persons or damage to and loss of use and loss of value to their property resulting from mineral and energy exploration, development, production and transmission.

EMNRD notes this memorial identifies conflicts between surface owners and mineral producers as an issue to be addressed by the federal government, correctly recognizes three important aspects of this issue. They are:

- Most of the split estate lands in New Mexico, lands where the surface and minerals are owned by different owners, are the result of reservation of the minerals by the United States either for itself or on behalf of native tribes;
- The right of persons leasing minerals from the United States or the tribes to use the surface is, ultimately, a question of federal law; and
- The United States government has the power to control use of the surface by its mineral lessees.

For all of these reasons, the federal government will necessarily be involved in any effort to address conflicts between mineral and surface values and uses.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HM 34 relates to HB 1015, Surface Owners' Protection Act, proposes to amend state law. EMNRD believes this also a valid approach since federal courts have generally applied state law to the issue of the rights of surface owners to recover damages to the surface estate from lessees of federal minerals.

DW/lg