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FISCAL IMPACT REPORT

SPONSOR Jennings ORIGINAL DATE 2-11-06
 LAST UPDATED _____ HB _____

SHORT TITLE Pecos River Settlement Water Rights SB 577

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	\$18,000.0	Non-Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB377 and HB121

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the State Engineer-Interstate Stream Commission (OSE)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 577 seeks to appropriate \$18,000,000 from the general fund to the interstate stream commission for expenditure in fiscal year 2007 and subsequent fiscal years to acquire water rights on the Pecos River pursuant to the Pecos River Water Rights Adjudication Settlement. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general

SIGNIFICANT ISSUES

The Office of the State Engineer-Interstate Stream Commission (OSE) indicates that the State of New Mexico reached a settlement agreement with Carlsbad Irrigation District (CID), Pecos Valley Artesian Conservancy District (PVACD) and the U.S. Bureau of Reclamation to settle long-standing water rights adjudication dispute and to put in place a long-term plan to permanently comply with the Pecos River Compact and the U.S. Supreme Court's Amended Decree. The full

implementation of the settlement agreement, which includes among other things, purchase and retirement of 18,000 acres of water rights and the development of a 20,000 AFY capacity augmentation well field, costs about \$96 million. So far, the New Mexico Interstate Stream Commission (NMISC) has about \$48.5 million of previously appropriated money and needs an additional \$48 million for full settlement implementation. \$18 million is needed for work to be completed to meet settlement minimums and an additional \$30 million for full implementation. The successful implementation of the settlement agreement will provide significant economic and water management benefits to New Mexico.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB377 and HB121.

TECHNICAL ISSUES

OSE notes the following technical considerations:

- Statutes authorizing the purchase of water rights for the Pecos Settlement require the state to also buy the lands to which the water rights are appurtenant to. Therefore, the bill should allow for the purchase of land to which the water rights are appurtenant to in addition to water rights.
- Augmentation well fields are an integral component of the Pecos Settlement and the appropriation must be available to also develop augmentation well fields.

OTHER SUBSTANTIVE ISSUES

OSE indicates that substantial progress toward satisfying conditions precedent for the implementation of the settlement has already been achieved with funds received thus far. Approximately 5,000 acres of land with water rights have already been purchased.

Development of the augmentation well field is under way. As of January 2006, a total of \$2.4 million has been expended on augmentation well field development. Two pipelines were constructed in the Roswell Basin to deliver ISC owned and leased water to the Pecos in the winter months. As part of our main augmentation well field construction, four artesian wells and a nested piezometer set have been drilled in the South Seven Rivers Area, a minimum of six more wells needs to be drilled.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

OSE suggests that if funding is not available to continue the Settlement implementation, the Settlement may fail. This may leave strict priority administration as the only means to remedy a net water delivery shortfall after having already expended nearly 50 percent of the cost of full implementation. Priority administration will be costly, difficult and highly contentious. It will require significant expenditures for administration, enforcement and litigation with unpredictable and potentially disastrous results for Pecos water users and the state of New Mexico.

AMENDMENTS

OSE suggests the following amendments:

1. Line 18: insert after acquire “land and”
2. Line 19: change “Pecos river pursuant” to “Pecos river and to develop augmentation well fields and to take other actions necessary pursuant”

MW/mt