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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/17/08

SPONSOR Rainaldi LAST UPDATED 02/09/08 HB \_\_\_\_\_

SHORT TITLE Pass Northwestern NM Water Project Act SJM 18/aSRC

ANALYST Escudero

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Indian Affairs Department (IAD)

Office of the State Engineer (OSE)

### SUMMARY

#### Synopsis of SRC Amendment

The Senate Rules Committee amendment adds the following language:

"WHEREAS, because the proposed federal budget for fiscal year 2009 recently submitted to congress by President George W. Bush does not include funding for projects identified in the Northwestern New Mexico Rural Water Projects Act, it is critical that congress take the initiative to ensure that adequate federal dollars for planning and implementation of the Navajo-Gallup water supply project are included in the federal budget for fiscal year 2009".

### SIGNIFICANT ISSUE

This Amendment makes clear that the fiscal year 2009 federal budget recently submitted to congress does not include funding for projects identified in the Northwestern New Mexico Rural Water Projects Act and that it is critical that adequate funding be available for the Navajo-Gallup Water Supply Project for fiscal year 2009.

Synopsis of Original Bill

This Joint Memorial urges Congress to pass the Northwestern New Mexico Rural Water Projects Act.

- The State of New Mexico and the Navajo Nation have negotiated the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement, referred to in this memorial as the "settlement agreement", that quantifies the Navajo Nation's rights to use water of the San Juan river basin in New Mexico.
- The Navajo Nation, the State of New Mexico and the City of Gallup have approved the settlement agreement or related agreements that will implement the settlement agreement and the construction of the Navajo-Gallup water supply project.
- Both the Interstate Stream Commission and the State Engineer have approved the settlement agreement.
- The settlement agreement fits within New Mexico's apportionment under the Upper Colorado River Basin Compact and provides benefits to the State of New Mexico, the Navajo Nation and the Jicarilla Apache Nation and also provides substantial protections to other parties to the San Juan River adjudication.
- Construction of the Navajo-Gallup water supply project will provide water to numerous chapters of the Navajo Nation and will reduce the need for eighty thousand Navajo men, women and children to bear the financial and physical burden of hauling water for domestic use.
- Construction of the Navajo-Gallup water supply project will provide the City of Gallup with a renewable surface water supply that is essential to the city's future growth.
- The state of New Mexico has already appropriated more than twenty-five million dollars (\$25,000,000) for the implementation of planning and construction of distribution systems for the water that will be delivered to the Gallup area through the Navajo-Gallup water supply project.
- The Legislature of The State of New Mexico that it express its support of the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement.
- Copies of this memorial be transmitted to the Chair of the United States Senate Committee on Energy and Natural resources, the Chair of the Subcommittee on Water and Power of the United States House of Representatives Committee on Natural Resources, New Mexico's congressional delegation, the Governor, the President of the Navajo Nation, the Speaker of the Navajo Nation council, the President of the Jicarilla Apache Nation, the City Council of Gallup and the Mayor of Gallup.

**SIGNIFICANT ISSUES**

As follows, the IAD states that SJM 18 received endorsement by the Interim Indian Affairs Committee at their November 7, 2007 meeting.

The State of New Mexico and the Navajo Nation on April 19, 2005, signed a water rights settlement agreement to resolve the claims of the Navajo Nation for the use of waters of the San Juan River Basin in northwestern New Mexico.

- According to the Office of the State Engineer ("OSE"), the settlement agreement is intended to adjudicate the Navajo Nation's water rights and provide associated water development projects for the benefit of the Navajo Nation in exchange for a release of

claims to water that could potentially displace existing non-Navajo water users in the basin and seriously impact the local economy.

- Additionally, the settlement agreement would establish the water rights of the Navajo Nation in the San Juan Basin in New Mexico. The OSE further provides that the settlement agreement would draw to a close more than 20 years of efforts to adjudicate the Navajo Nation's water right owners, protect existing uses of water, allow for future growth, and would do so within the amount of water apportioned to New Mexico by the Colorado River Compacts.
- The Settlement Agreement will become effective if the Congress passed the Settlement Act and the President signs the act into law. Currently, the Northwestern New Mexico Rural Water Supply Act, which would authorize the Settlement Agreement, is pending in the United States Congress.
- On December 7, 2006, Senator Bingaman and Representative Udall introduced legislation (S. 4108 and HR 6436) to authorize and fund the settlement. On April 12, 2007, the legislation was reintroduced by Senators Bingaman and Domenici (S. 1171) and Representative Udall (HR 1970).
- On June 27, 2007, the Senate Energy and Natural Resources Committee held a hearing on the settlement legislation. On July 24, 2007, the House Subcommittee on Water and Power of the Natural Resources Committee held a hearing on the legislation. Mr. John D'Antonio, New Mexico State Engineer, testified at the June 27, 2007 hearing. Mr. Jim Dunlap, Chairman of the Interstate Stream Commission, presented testimony at the July 24, 2007 hearing.
- Overall, State Engineer John D'Antonio believes "the Navajo settlement is fair to both Navajo and non-Indian water users in the San Juan Basin in New Mexico because it removes the cloud of unsettled Navajo water rights and brings real promise of safe drinking water to Northwest New Mexico."

In his testimony before the United States Senate Committee on Energy and Natural Resources concerning S. 1171, Navajo Nation President Shirley testified that "[m]any of the 80,000 Navajo men, women, and children who live within the project service area, including Navajo Code Talker Frank Chee Willeto, presently haul water for drinking and cooking. Although construction of the project will not necessarily eliminate all water hauling on the reservation, this project will allow the Indian Health Service to expand distribution systems to provide potable water delivery to more homes, and creates growth corridors within the Navajo Nation where future communities can be built with ready access to roads, electricity and potable water. As such, this project represents a critical component of the Navajo Nation's economic development strategy. While construction of the pipeline may not represent a condition sufficient to ensure economic prosperity for the Navajo People, surely such prosperity will never be possible in the absence of a sustainable potable water supply."

The City of Gallup and the Jicarilla Apache Nation would also be beneficiaries of the Northwestern New Mexico Rural Water Supply Project. According to State Engineer D'Antonio "[i]t is estimated that by 2040, the Navajo Settlement pipeline will serve approximately 250,000 people in Northwest New Mexico, including residents of Gallup."

Copies of SJM 18 would be transmitted to the Chair of the U.S. Senate Committee on Energy and Natural Resources, the Chair of the Subcommittee on Water and Power of the U.S. House of Representatives Committee on Natural Resources, New Mexico's Congressional Delegation, the

Governor, the President of the Navajo Nation, the Speaker of the Navajo Nation Council, the President of the Jicarilla Apache Nation, the City of Gallup and the Mayor of Gallup.

### **TECHNICAL ISSUES**

As stated by, OSE, Page 2, lines 17-21. The Northwestern New Mexico Rural Water Projects Act would authorize two pipelines as part of the proposed project, one distributing water generally along the US 491 corridor from Shiprock to Gallup and one distributing water generally along the US 550 corridor from near Bloomfield to the junction of State Hwy. 537. The appropriations cited are for planning and construction of facilities to distribute water along both pipeline routes.

As stated by IAD, copies of SJM 18 should also be transmitted to the NM Office of the State Engineer and the NM Interstate Stream Commission. The Office of the State Engineer is charged with administering the state's water resources.

### **RELATIONSHIP**

This bill requests the United States Senate and the United States House of Representatives to approve, during the one-hundred-tenth session of congress, the Northwestern New Mexico Rural Water Projects Act that has been introduced in the senate as Senate Bill 1171 and in the House of Representatives as House Bill 1970.

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

IAD states that if SJM 18 is not enacted, the United States Congress may not be made aware of the support that the legislation has in the State of New Mexico.

PME/mt:bb