

Senate Bill 455 - NM Unit Reports to Legislature

Sponsored by **Senator Joseph Cervantes**, this bill requires that the Interstate Stream Commission (ISC) provide a written report to the Legislature by November 1, 2015 that demonstrates the NM CAP Entity has the technical, legal and financial capacity to design, build, operate and maintain the Gila River diversion project ("NM Unit") under the Arizona Water Settlements Act (AWSA). The report must be signed by the State Engineer and the Legislative Finance Committee must find that the report adequately addresses these issues prior to the NM CAP Entity signing the NM Unit Agreement.

Background

In 2004 Congress passed the AWSA that authorized diversion of the Gila River if New Mexico agreed to buy water from Arizona to replace what the state takes out of the river. \$100 million (2004\$) was made available through the AWSA. \$66 million of this is available to meet local water needs in southwest New Mexico without diverting the Gila River. A diversion project is expensive with costs now estimated at over \$1 billion (construction, OM&R, exchange costs), will yield little to no water, and will negatively impact the hydrology and ecology of the Gila River.

In November 2014, the Interstate Stream Commission decided to move forward with planning for a Gila River diversion project under the AWSA. New Mexico must now designate a NM CAP Entity that would be responsible for the design, construction, operation and maintenance of the NM Unit. This entity must execute the NM Unit Agreement with the Secretary of Interior by November 24, 2015.

However, the ISC has not been forthcoming about the project to the Legislature and the public throughout the 10-year AWSA planning process. Although the ISC has decided to move forward, fundamental questions remain unanswered that have enormous financial implications for the state, such as purpose and need for the project, project yield, end water users, full accounting of project costs, financing, affordability, and technical, legal and financial capacity of the NM CAP Entity to design, build, operate and maintain the NM Unit.

The NM CAP Entity will likely seek funding from the state legislature to pay for the diversion project. Additionally, the Entity will have authority to levy assessments and taxes on citizens of southwest New Mexico to raise revenues to pay for the NM Unit. Taxpayers and water users could be forced to pay a shortfall of \$900 million to cover the costs of the project beyond the \$100M in available AWSA funding. Water from a Gila River diversion project is unaffordable to irrigators at \$8000/acre-foot and to municipal users as water rates in Deming could increase at least 10 times.

SB455 directs the ISC to provide a written report to the Legislative Finance Committee that would demonstrate whether or not the NM CAP Entity has the technical, legal and financial capability to design, build, operate and maintain the Gila River diversion project. The Legislature and public have a right to know the financial implications of moving forward with a NM Unit, given that there is more than \$1 billion in water infrastructure needs around the state and reduced state budget due to decline in revenue from oil and gas severance taxes.

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