

## **SB542 NM Unit Fund & Stream Commission Actions**

Sponsored by **Senator Sander Rue (R-Bernalillo)**, this bill would require public participation, greater transparency and accountability from the Interstate Stream Commission in its expenditures of Arizona Water Settlements Act (AWSA) federal funding. It would amend and augment the state law passed in 2011 creating the New Mexico Unit Fund that gave the ISC *carte blanche* over approximately \$90 million in AWSA funds.

### Background

In 2004 Congress passed the AWSA that authorized diversion of the Gila River under almost impossibly stringent conditions. New Mexico must replace the water 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), has low water yield, and will destroy a totally wild section of the Gila River and habitat.

In November 2014, the Interstate Stream Commission voted to move forward with planning for a Gila River diversion project under the AWSA. New Mexico must now designate a NM CAP Entity and specify its responsibilities to design, construct, operate and maintain the NM Unit. This entity must execute the NM Unit Agreement with the Secretary of Interior by November 24, 2015.

The ISC's AWSA planning process has lacked transparency, operating outside of the Open Meetings Act, and has hid from the public and the legislature the full cost of the \$1 billion project, its financing and affordability, and low water yield – facts that have enormous financial implications for New Mexico taxpayers and water users. Although the commission also approved funding of some of the non-diversion alternatives, the low funding levels and the unduly burdensome conditions imposed by the ISC on use of the monies will make it difficult if not impossible for local communities, irrigators, and land managers to access the AWSA funding.

**SB542 requires the ISC adopt rules for transparent consultations with the Gila-San Francisco Water Commission** pertaining to use of AWSA funds and for transparency in expenditure approvals. The ISC has ignored the consultation requirement to date and has committed AWSA funding behind closed doors.

**The bill would also require the State Engineer, as ISC Secretary, to provide public written analyses of each major proposed expenditure from the fund, including imposing the SMART criteria** (specific, measurable, achievable, relevant, and timely) on work by contractors prior to authorization. The ISC has not publicly authorized any of the \$9 million in its Gila contracts and associated work orders and purchase orders. Much of the public money has been spent on poor quality work not conducted scientifically or intended to hide fatal flaws.

**SB542 also establishes requirements for major actions by the ISC**, such demonstration of the technical and financial capacity of the NM CAP Entity to fulfill its significant responsibilities and disclosure of NM Unit expected water yield, beneficiaries, costs, and who will pay.