

# NEW MEXICO INTERSTATE STREAM COMMISSION

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## RESOLUTION OF THE NEW MEXICO INTERSTATE STREAM COMMISSION REGARDING THE SAN JUAN RIVER BASIN IN NEW MEXICO NAVAJO NATION WATER RIGHTS SETTLEMENT AGREEMENT

January 12, 2005

WHEREAS, the Navajo Nation is a party in the general stream adjudication of the San Juan River Basin in New Mexico being determined in *New Mexico v. United States*, No. 75-184, District Court of San Juan County; and

WHEREAS, proceedings to determine the nature and extent of the rights to water of the Navajo Nation in the San Juan River Basin in New Mexico are pending in the San Juan River adjudication; and

WHEREAS, recognizing that final resolution of the proceedings in the San Juan River adjudication may take many years, entail great expense, prolong uncertainty concerning the availability of water supplies, and seriously impair the long-term economic well-being of all water users in the San Juan River Basin in New Mexico; and

WHEREAS, representatives of 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 (Settlement Agreement) that would set forth the Navajo Nation's rights to use waters of the San Juan River Basin in New Mexico; and

WHEREAS, the Settlement Agreement provides for historic and existing uses of the Navajo Nation within the San Juan River Basin in New Mexico, plus rights for the full development of the Navajo Indian Irrigation Project authorized by the Act of June 13, 1962 (Public Law 87-483) and for development of the Navajo Nation's uses under the Navajo-Gallup Water Supply Project; and

WHEREAS, the Settlement Agreement provides for a full and final settlement of the water rights claims of the Navajo Nation to the use of waters of the San Juan River Basin in and from the State of New Mexico that would inure to the benefit of the State of New Mexico, the Navajo Nation and other parties to the San Juan River adjudication; and

WHEREAS, the uses of water in New Mexico under the rights that would be provided the Navajo Nation pursuant to the Settlement Agreement can be supplied within the apportionment of water from the Upper Colorado River Basin made to the State of New Mexico pursuant to the Upper Colorado River Basin Compact; and

WHEREAS, the Settlement Agreement is conditioned upon implementation of the proposed Navajo-Gallup Water Supply Project to provide needed municipal and domestic water supply to Navajo Nation communities in northwestern New Mexico; and

WHEREAS, Navajo-Gallup Water Supply Project uses to be made by the Jicarilla Apache Nation would be supplied under the Jicarilla Apache Nation's settlement contract approved by the Jicarilla Apache Tribe Water Rights Settlement Act of 1992, and it is anticipated that the Project uses to be made by the City of Gallup also will be supplied through the Jicarilla Apache Nation's settlement contract; and

WHEREAS, the Settlement Agreement provides for Congress to approve the Settlement Agreement, to authorize the Navajo-Gallup Water Supply Project, and to approve a contract between the United States and the Navajo Nation that would allow for the Navajo Nation's uses of water from the Navajo Reservoir water supply under the Navajo-Gallup Water Supply Project and the Navajo Indian Irrigation Project; and

WHEREAS, the Navajo Indian Irrigation Project and the Navajo-Gallup Water Supply Project would share in shortages in the Navajo Reservoir water supply with other contractors of that supply and the San Juan-Chama Project in accordance with the Act of June 13, 1962 (Public Law 87-483); and

WHEREAS, the Navajo Nation uses under the Animas-La Plata Project as authorized by the Colorado Ute Settlement Act Amendments of 2000 would share in shortages in the Animas-La Plata Project water supply with other contractors of that supply in accordance with the Animas-La Plata Project Compact; and

WHEREAS, under the Settlement Agreement the Navajo Nation would agree to protect Animas-La Plata Project uses in New Mexico against substantial curtailment in the event of a call on uses in New Mexico for the Upper Division States to meet their obligations under the Colorado River Compact and the Upper Colorado River Basin Compact; and

WHEREAS, the Navajo Nation under the Settlement Agreement would agree to commit a portion of its Navajo Indian Irrigation Project contract supply for delivery to the Fruitland and Hogback irrigation projects on the San Juan River to allow uses on the latter two projects to be served largely by means other than administration of priorities against more junior uses on the Animas and San Juan rivers in New Mexico; and

WHEREAS, the rights that would be provided the Navajo Nation pursuant to the Settlement Agreement may not be used directly or indirectly outside the boundaries of the State of New

Mexico without the consent of the State, acting through the New Mexico Interstate Stream Commission, and unless in compliance with applicable law; and

WHEREAS, the Navajo Nation under the Settlement Agreement would agree to not challenge rights of other parties to the San Juan River adjudication that were previously adjudicated by the Echo Ditch Decree, except on the basis of forfeiture or abandonment for non-use or unauthorized use since entry of the Echo Ditch Decree; and

WHEREAS, parties to the San Juan River adjudication may file objections to the proposed determinations of water rights for the Navajo Nation in an expedited *inter se* process to be determined by the Court in the adjudication; and

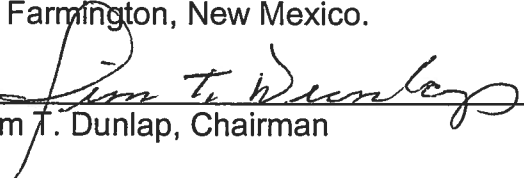
WHEREAS, on December 29, 2004, the Navajo Nation Council approved the final draft of the Settlement Agreement dated December 10, 2004.

NOW, THEREFORE, BE IT RESOLVED, that the New Mexico Interstate Stream Commission approves the terms and provisions of the final draft of the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement dated December 10, 2004; and

BE IT FURTHER RESOLVED, that the New Mexico Interstate Stream Commission requests the Governor of the State of New Mexico and the Attorney General of the State of New Mexico to execute the Settlement Agreement on behalf of the State of New Mexico; and

BE IT FURTHER RESOLVED, that the New Mexico Interstate Stream Commission directs that after execution of the Settlement Agreement both by the Navajo Nation and the State of New Mexico, the Secretary of the Commission shall transmit a copy of this Resolution and the Settlement Agreement to each member of New Mexico's Congressional delegation along with a request that the members of the delegation introduce into Congress the proposed legislation for Congress to approve the Settlement Agreement.

Approved this 12<sup>th</sup> day of January at the meeting of the New Mexico Interstate Stream Commission held in Farmington, New Mexico.

BY:   
Jim T. Dunlap, Chairman

Date: 