

**July 9, 2004 Draft - Navajo Nation Water Rights Settlement**

**San Juan River Basin, New Mexico**

THIS PRESENTATION IS A SUMMATION AND DOES NOT REPRESENT A SETTLEMENT DOCUMENT  
It is expressly understood that the governing bodies or authorities of the State of New Mexico, the Navajo Nation and the United States have not approved a settlement or settlement documents.

**New Mexico's Upper Basin Allocation is 669,375 acre-feet**

Some of New Mexico's allocation goes toward reservoir evaporation.

Only 583,675 acre-feet is available for use by New Mexico.

Category	Value
Available water to deplete by users	583,675
Reservoir evaporation	68,000
Other	27,700

**Upper Colorado River Basin Compact of 1948**

COLORADO RIVER BASIN

- Allocates 50,000 acre-feet of consumptive use to Arizona in Upper Basin
- Apportions water to Upper Basin States:
  - Colorado 51.75%
  - New Mexico 11.25%
  - Utah 23.00%
  - Wyoming 14.00%

**PROPOSED NAVAJO NATION WATER RIGHT**

- San Juan River Basin in New Mexico
- Diversion: 606,060+ acre-feet per year
- Depletion: 325,370 acre-feet per year
- 50% of any additional apportionment

**Why 11.25%?**

- New Mexico geographically contributes "3%" to the water yield of the Upper Colorado River Basin
- Recognition of the potential claims by the San Juan Basin Indian communities resulted in New Mexico being granted 11.25% of the Upper Basin Supply.

**San Juan River Depletions**

Entity	Percentage
Navajo Nation	56%
San Juan Chama	17%
Other New Indian	16%
Power Plants	6%
Jicarilla Apache Nation	5%

# NIIP



110,630 Acres  
Diversion Right: 508,000 afy

Depletion Right: 270,000 afy

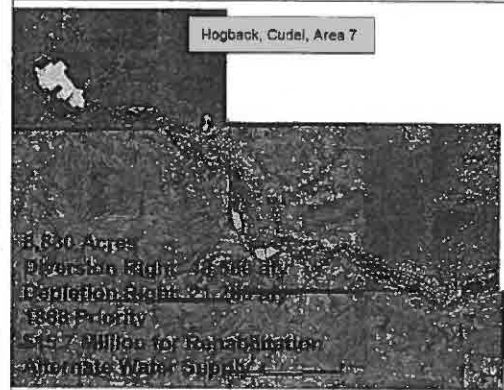
1868 Priority satisfied out of Navajo Reservoir storage.

Right to reuse tail water, so long as the depletion is not increased.

Water right transferable to other uses by Navajo Nation.

7

Hogback, Cudde, Area 7



110,630 Acres  
Diversion Right: 508,000 afy  
Depletion Right: 270,000 afy  
1868 Priority  
\$1.7 Million for Rehabilitation  
Alternate Water Supply

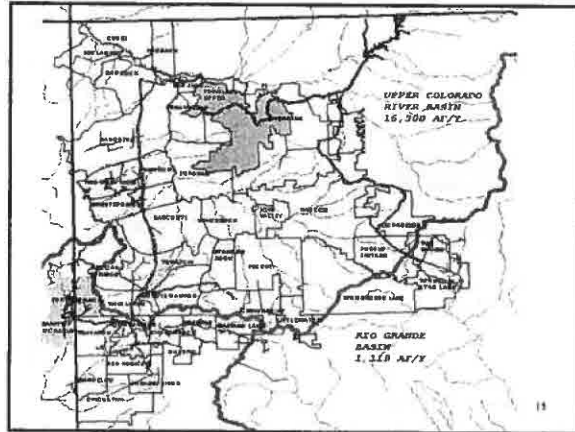
## 1868 Reserved Right and Navajo Dam Storage Right

All Navajo Reserved Water Rights have a priority of June 1, 1868, based on the Treaty of 1868.



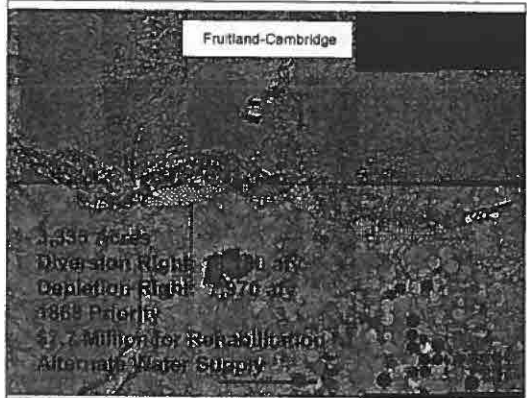
The 1868 priority is subordinated for NIIP and Navajo-Gallup unless water from Navajo Dam is "irretrievably lost."

8



11

Fruitland-Cambridge



110,630 Acres  
Diversion Right: 508,000 afy  
Depletion Right: 270,000 afy  
1868 Priority  
\$1.7 Million for Rehabilitation  
Alternate Water Supply

## Navajo-Gallup Water Supply Project

- Total Diversion: 37,760 acre-feet
- Total Depletion: 35,890 acre-feet
- Settlement Depletion: 20,780 acre-feet

- Navajo in NM: 20,780 acre-feet
- Navajo in AZ: 6,410 acre-feet
- City of Gallup: 7,500 acre-feet
- Jicarilla Apache: 1,200 acre-feet
- Total: 35,890

- Navajo uses in Arizona to come from Arizona's allocation of water.
- City of Gallup needs to find its own supply of water.
- Jicarilla Apache will use its decreed water rights in New Mexico.

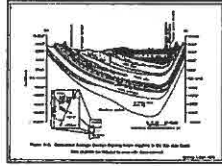
12

## Ground Water

2,000 AF/yr (1868 Priority)

Right to additional ground water, subject to:

- 1) non-impairment of existing ground water users.
- 2) Depletions > 2,000 AF/yr from San Juan River requires offset plan approved by OSE.



13

## Funding Summary

Development funds authorized by settlement legislation

- NIIP completion: \$372.8 million
- Fruitland rehabilitation: \$ 7.7 million
- Hogback rehabilitation: \$ 15.7 million
- NGWSP construction: \$589.6 million
- NN Municipal Pipeline: authorized
- Ground water wells: \$ 77.6 million

Additional funds

- Hydrographic Survey \$ 5.0 million
- Navajo Water Trust Fund \$ 50.0 million (half federal, half NM)

**Total Federal share \$ 1.1 billion**

15

## Miscellaneous Uses



Additional water, including small irrigation, stockponds, stockwells, and livestock uses to be added after hydrographic survey. 1868 Priority.

14

## Alternate Water Supply



17

## Water Rights Summary

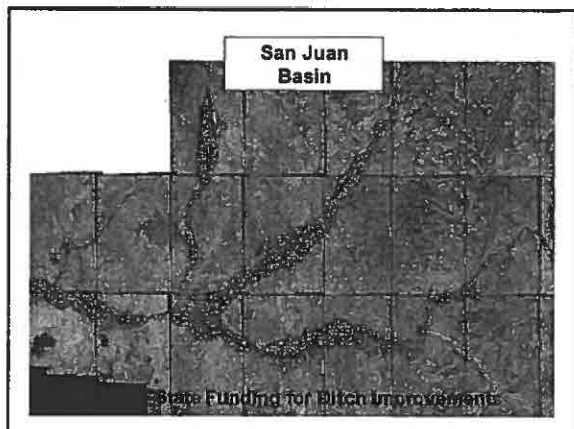
	Diversion (af/yr)	Depletion (af/yr)	Priority
<b>Irrigation Projects:</b>			
• NIIP	508,000	270,000	1955
• Fruitland-Cambridge	18,180	7,970	1868
• Hogback-Cudei	48,550	21,280	1868
• Tributary	Hydrosurvey		1868
<b>M &amp; I and Domestic Uses:</b>			
• Navajo-Gallup	22,650	20,780	1955
• Animas-La Plata Project	4,880	2,340	1956
• San Juan River	2,000	1,000	1868
• Ground water	2,000	2,000	1868
<b>TOTAL</b>	<b>606,060</b>	<b>325,370</b>	

15

## Alternate Water Supply

- Pre-approved transfer of NIIP water right, within authorized depletion.
- Eliminates need to assert "call" against other water users in most years.
- Hogback & Fruitland to receive up to 15,000 AF/yr out of NIIP water supply.
- Limited by shortage from reservoir supply.

16



## Water Rights Administration

- State Engineer is water master on the San Juan River
- Navajo authority to change purpose and place of use on Navajo trust lands in New Mexico
- State Engineer must approve:
  - Changes in place of use to off trust lands
  - Changes in point of diversion

22

## San Juan River Adjudication

- Navajo Nation not to challenge the Echo Ditch or other previous decrees
- Navajo Nation agrees to other irrigation rights quantified consistent with the 1938 Hydrosurvey and the Echo Ditch Decree
- Navajo Nation agrees to Hammond Project right of 26,724 AF/yr
- Navajo Nation may object to rights on the basis of abandonment, forfeiture or unauthorized use since entry of the Echo Ditch Decree or issuance of permits/licenses

20

## Administration of NIIP

- Navajo Nation Administration of Uses
  - NIIP right fungible to non-irrigation uses
  - Navajo Nation has authority to change uses within Project area if diversion <353,000 AF/yr and there is no impairment to other uses
- State Engineer Authority
  - Diversion and use monitoring
  - Applications to divert more than 353,000 AF/yr if rights used for non-irrigation purposes

23

## ALP Protection

- ALP Priority 1956
- Navajo Nation to forbear uses under Settlement Contract to protect NM ALP allocations made by the Colorado Ute Settlement Act Amendments of 2000 to same % water supply as Navajo-Gallup Project uses in NM
  - If over-allocation of NM apportionment
  - If call to meet the Lee Ferry delivery requirement under the Colorado River Compact
- One-third of ALP protection conditioned on AF/AF abandonment, forfeiture or retirement of rights – not to affect adjudication of rights

21

## Leasing/Marketing

- Navajo Nation may lease or contract its water, subject to transfer requirements
- Secretary of Interior must approve subcontracts under Settlement Contract
- NM must approve and consent to interstate transfers of rights

24

### Shortage Sharing among Contractors

- Shortage based on anticipated supply for year
- NGWSP uses in AZ shorted first consistent with Upper Colorado River Basin Compact
- Remainder of shortage distributed to normal diversion requirements
  - San Juan/Chama Project: 135,000 AF/yr
  - Navajo Reservoir current demands, excluding demands met from inflow below Dam

25

### Schedule

- |                                      |      |
|--------------------------------------|------|
| • Approve Settlement Agreement       | 2004 |
| • Enact Settlement Act               | 2006 |
| • Complete NGWSP EIS/ROD             | 2006 |
| • Complete Hydrographic Survey       | 2011 |
| • Entry of Partial Final Decree      | 2015 |
| • Complete Trust Fund deposits       | 2016 |
| • Construction completion            | 2022 |
| • Last date for revocation of decree | 2025 |

26

### Summary of Benefits to Non-Navajos

- 1) Quantity that fits within apportionment
- 2) Priority that is 90% subordinated
- 3) Alternate Water Supply
- 4) No challenge to Echo Ditch

26

- 5) ALP Protection
- 6) State Engineer administration
- 7) No out-of-state marketing without state consent
- 8) State Engineer permit required for NIIP diversions over 353,000 AF/yr
- 9) San Juan/Chama normal diversion requirement of 135,000 AF/yr

27

