

**West Hammond Domestic Water Association**  
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**Comments on Discussion Draft**  
**Navajo Nation Water Rights Settlement**  
December 5, 2003

Mr. John Whipple  
New Mexico Interstate Stream Commission  
PO Box 25102  
Santa Fe, New Mexico 87504-5102

The Board of Directors of the West Hammond Domestic Water Association, on behalf of our 1065 members their and families would like to submit our comments concerning the proposed Navajo Nation Water Rights Settlement documents published December 5, 2003. We believe that the following comments/changes should be considered to protect the water rights of the constituents we represent. Some of these changes would also protect some of these same households concerning irrigation usage along the San Juan river basin.

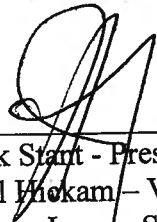
We are very disappointed with the short review and comment period that has been afforded to us on this matter. A situation such as this lends itself to poor end products that have significant impact on all citizens in the San Juan Basin. However with that said we have the following major comments (although not all of what we see as potential problems) on this proposal.

- Language in all documents must be changed to reflect the water rights already established pursuant to State Engineer File nos. 2847, 2849, 2873, 2917, 2883, and 3215. The language used throughout these documents is incorrect and seems to be in direct conflict with established New Mexico law.
- It is very important to us that language be changed in all documents to remove reference to State Engineer File no. 2848. This is a separate permit for water to the Hammond Conservancy District only and is not encumbered in any way to satisfy the Navajo Nations water right.
- "Ten Year average diversions" referred to in these documents are not in compliance with New Mexico State Law under 72-5-1. Allowing this wording to remain would allow far in excess of the diversions and depletions in any one year. This would be highly detrimental to our members and other users in the basin.
- Language must be changed in all documents that will assure all diversions to Navajo Nation lands is under the State Engineers control, monitoring, and jurisdiction and likewise with all Navajo Nation water used off Navajo Nation lands. New Mexico law charges the State Engineer with the duty of administering

all matters relating to the appropriation, transfer, and distribution of water (NMSA 1978 sec. 72-5-1 to -39). This is not the case in this settlement.

- The Fruitland/Cambridge maximum diversion rate should be changed from 100 cfs to 83 cfs with an 1868 priority date. This would then agree with the 1 cfs per 40 acres for the Hogback/Cudei project and other non-Navajo ditches in the Echo Decree.
- Should not the Hogback/Cudei maximum diversion rate be 115 cfs with an 1868 priority and the other 110 cfs be a 1909 priority date?
- We would request that a State operated gauging station be established in the San Juan River above the Hogback diversion. This would give all users some certainty in the control of all diversions.

These comments respectfully submitted by the West Hammond Domestic Water Association Board of Directors on behalf of our membership.



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Jack Start - President  
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Dr. John Leeper - Navajo Nation Department of Water Resources  
Senator Pete Domenici, US Senate  
Senator Jeff Bingaman, US Senate  
Governor Bill Richardson, Governor of New Mexico  
Congressman Tom Udall, US Representative  
Congressman Stevan Pearce, US Representative  
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Senator William Sharer - NM State Senate  
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