

Status Report to the ISC on the Navajo Nation Water Rights Settlement
October 19, 2004

- (1) Finalization of documents for the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement has been delayed pending further input from New Mexico's Senators Domenici and Bingamin. At issue is the large cost of settlement and whether the cost of settlement can be reduced. In particular, the Senators question whether raising the cost ceiling for the Navajo Indian Irrigation Project should be included as part of the settlement. This issue will need to be worked out between the Senators and the Navajo Nation.
- (2) ISC and Navajo Nation staff continue to discuss the language describing the waivers placed in the July 9 draft Settlement Agreement that provide protection to previously decreed and permitted water rights in the San Juan Basin. Public concerns about the waivers language have been raised by the City of Farmington, the Hammond Conservancy District and the San Juan County Agricultural Water Users as expressed at the ISC's August 2004 meeting in Farmington.
- (3) ISC and Navajo Nation staff have redrafted the proposed Partial Final Decree into two parts to address public concerns regarding the delay between execution of a Settlement Agreement and completion of a hydrographic survey with subsequent submittal to the San Juan River Adjudication court of a proposed decree. The concerns primarily relate to the court not reviewing and adjudicating the rights of the Navajo Nation to divert and use waters of the San Juan River prior to making substantial expenditures of federal funds on Navajo Nation water development projects, namely completion of the Navajo Indian Irrigation Project and the Navajo-Gallup Water Supply Project. A proposed Partial Final Decree to define the reserved rights of the Navajo Nation to divert and use water from the San Juan River and the Animas River would be submitted to the court after Congressional approval of the settlement and execution by the United States of the Settlement Agreement and Settlement Contract, and a Supplemental Partial Final Decree to define the reserved rights of the Navajo Nation to divert and use water from the Chaco River and its tributaries would be submitted to the court at a later date after a hydrographic survey is completed to quantify the latter rights.
- (4) The State Land Office has asserted that it has claims to unspecified amounts of reserved rights to use water in the San Juan River Basin in New Mexico. The Adjudication court has given the State Land Office until 2007 to submit its claims. It is not clear whether the uncertainty of the State Land Office's claims may affect the ability of the State of New Mexico to move forward with the Navajo Nation Water Rights Settlement.