

DISTRICT COURT
SAN JUAN COUNTY NM
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1
2 STATE OF NEW MEXICO
3 SAN JUAN COUNTY
4 THE ELEVENTH JUDICIAL DISTRICT COURT

5
6 STATE OF NEW MEXICO, *ex rel.* STATE ENGINEER,
7
8 Plaintiff,

CV-75-184
HON. JAMES J. WECHSLER
Presiding Judge

9
10 vs.

SAN JUAN RIVER
GENERAL STREAM
ADJUDICATION

11
12 THE UNITED STATES OF AMERICA, *et al.*,

13
14 Defendants,

Claims of the Navajo Nation
Case No. AB-07-1

15
16 THE JICARILLA APACHE TRIBE AND THE
17 NAVAJO NATION,

18
19 Defendant-Intervenors.
20

21
22 SUPPLEMENTAL PARTIAL FINAL JUDGMENT AND DECREE
23 OF THE WATER RIGHTS OF THE
24 NAVAJO NATION
25

26
27 THIS CASE is a general adjudication filed pursuant to NMSA 1978, Sections 72-4-13
28 through -19 of the surface and underground water rights within the San Juan River Basin in New
29 Mexico consistent with 43 U.S.C. Section 666.

30 This matter comes before the Court on the Settlement Motion of United States, Navajo
31 Nation and State of New Mexico for the Entry of Partial Final Decrees, filed January 3, 2011. The
32 Court finds that the Supplemental Partial Final Judgment and Decree of the Water Rights of the
33 Navajo Nation ("Supplemental Decree") is the product of a negotiated settlement by the aforesaid
34 parties. Notice of the deadline for filing and serving objections to the water rights described in this
35 decree was served on the parties to this case and potential water right claimants pursuant to the
36 expedited *inter se* procedures adopted by the Court. The Court, having considered the parties'

1 motion, the United States' Hydrographic Survey of Navajo Lands in the San Juan River Basin in
2 New Mexico dated December 2010 that identifies, among other things, water uses for which water
3 rights are to be adjudicated in this decree ("US Survey"), the water rights described in this decree,
4 the objections thereto, the evidence in support thereof, and for good cause shown:

5 ENTERED the *Order Granting the Settlement Motion for Entry of Partial Final Decrees*
6 *Describing the Water Rights of the Navajo Nation* on August 16, 2013; and

7 FINDS FURTHER that the Partial Final Judgment and Decree of the Water Rights of the
8 Navajo Nation ("Decree"), entered concurrently with this Supplemental Decree, provides for this
9 supplemental decree to further describe rights for uses determined by survey as per paragraphs 8 and
10 9 of the Decree, and directs the entry of this decree adjudicating water rights of the Navajo Nation
11 within the San Juan River Basin.

12 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

13
14 **1. JURISDICTION.**

15 The Court has jurisdiction over the subject matter and the parties in this case.

16 **2. SUPPLEMENT TO PARTIAL FINAL JUDGMENT AND DECREE.**

17 This Supplemental Decree is entered contemporaneously with the Decree.

18
19 **3. RESERVED RIGHTS.**

20 The Navajo Nation has reserved rights, which are held in trust by the United States on behalf
21 of the Navajo Nation, for historic and existing water uses on lands in the San Juan River Basin in
22 New Mexico. Reserved rights are not subject to abandonment, forfeiture or loss for non-use. The

1 reserved rights described in this paragraph have a priority date of June 1, 1868. The reserved rights
2 for historic and existing irrigation uses and related purposes on the Navajo Indian Irrigation Project,
3 the Hogback-Cudei Irrigation Project and the Fruitland-Cambridge Irrigation Project are included in
4 the reserved right amounts specified by subparagraphs 3(a), 3(e) and 3(f), respectively, of the Decree.

5 Reserved rights for historic, existing and future municipal, industrial, commercial and domestic
6 uses, including residential agricultural uses such as yard and stock watering, are included in the
7 reserved right amounts specified by subparagraphs 3(b), 3(c), 3(d) and 7(a) of the Decree. The total
8 annual quantities of water to which the Navajo Nation has a reserved right for historic and existing
9 uses and which are not included in paragraph 3 or subparagraph 7(a) of the Decree shall not exceed
10 an annual diversion of 26,872 acre-feet or an annual depletion at the places of use of 11,061 acre-feet
11 for uses other than reservoir storage described in subparagraphs 3.A.1 and 3.B.2 below, or a net
12 evaporation from stock ponds and irrigation reservoirs of 11,309 acre-feet. The term "depletion"
13 refers to the depletion caused by a particular use of water including any depletion incident to the use.

14 The reserved water rights described below are subject to the conditions of use set forth in
15 paragraph 5 of this Supplemental Decree and constitute the rights described in paragraph 8 of the
16 Decree. The following descriptions are not intended to prohibit changes in the point of diversion or
17 purpose or place of use of the Navajo Nation's reserved rights under Federal law. The conditions
18 under which the Navajo Nation may make such changes are specified in paragraph 12 of this
19 Supplemental Decree, and are subject to the Court's continuing jurisdiction to interpret and enforce
20 this Supplemental Decree as provided in paragraph 14 of the Decree and paragraph 9 of this
21 Supplemental Decree.

22 A. LIVESTOCK WATER USE

1 1. STOCK PONDS

2 The Navajo Nation has the following rights to fill and refill stock ponds on lands held by the
3 United States in trust on behalf of the Navajo Nation that are supplied from water sources other than
4 the San Juan River:

5 (a) STOCK PONDS IN DRAINAGES TRIBUTARY TO THE SAN JUAN
6 RIVER ABOVE THE CHACO RIVER CONFLUENCE, storage of water at up to 193 stock
7 ponds identified by the US Survey from existing surface, spring, or ground water sources at
8 each identified location, with a total combined maximum annual net evaporation depletion of
9 956 acre-feet based on a total combined volume of 628 acre-feet;

10 (b) STOCK PONDS IN THE CHACO RIVER DRAINAGE, storage of water at
11 up to 803 stock ponds identified by the US Survey, excluding stock ponds at locations
12 labeled P-0039, P-0042, P-0257, P-1823 and P-5072, from existing surface, spring, or ground
13 water sources at each identified location, with a total combined maximum annual net
14 evaporation depletion of 6,446 acre-feet based on a total combined storage volume of 3,378
15 acre-feet;

16 (c) STOCK PONDS IN DRAINAGES TRIBUTARY TO THE SAN JUAN
17 RIVER BETWEEN THE CHACO RIVER CONFLUENCE AND FOUR CORNERS,
18 storage of water at up to 98 stock ponds identified by the US Survey from existing surface,
19 spring, or ground water sources at each identified location, with a total combined maximum
20 annual net evaporation depletion of 487 acre-feet based on a total combined storage volume
21 of 264 acre-feet; and

22 (d) STOCK PONDS IN THE CHINLE WASH DRAINAGE, storage of water at

1 up to 36 stock ponds identified by the US Survey, excluding the stock pond at the location
2 labeled P-1092, from existing surface, spring, or ground water sources at each identified
3 location, with a total combined maximum annual net evaporation depletion of 556 acre-feet
4 based on a total combined storage volume of 365 acre-feet.

5 The locations and sources for each stock pond are described by Appendix B maps and
6 Appendix M, table M-3, of the US Survey; except, that this Supplemental Decree does not recognize
7 rights for the Navajo Nation to use water from sources other than the San Juan River to fill and refill
8 ponds at locations labeled P-5346 and P-5350 in the US Survey. The Navajo Nation may store water
9 up to the full capacity of any of the stock ponds referenced in subparagraphs (a) through (d).

10 2. STOCK USE

11 The Navajo Nation has the right to divert from existing water sources on lands held by the
12 United States in trust on behalf of the Navajo Nation a total combined maximum annual amount of
13 482 acre-feet, or an annual depletion by stock watering use from all stock watering sources at the
14 places of use of 482 acre-feet, based on livestock use for 40,900 animal units. Locations of existing
15 stock wells and springs are described by Appendix B maps and Appendix M, table M-1 and table M-
16 2, respectively, of the US Survey. This right includes all stock water consumption and incidental
17 depletions from the stock wells on Navajo Nation trust lands listed in table M-1 of the US Survey,
18 the springs on Navajo Nation trust lands listed in table M-2 of the US Survey, the stock ponds on
19 Navajo Nation trust lands that the Navajo Nation has the right to fill pursuant to subparagraph 3.A.1
20 of this Supplemental Decree, the irrigation wells on Navajo Nation trust lands listed in table F-1 of
21 the US Survey, the springs on Navajo Nation trust lands listed in table F-2 of the US Survey, the
22 irrigation reservoirs on Navajo Nation trust lands that the Navajo Nation has the right to fill pursuant

1 to subparagraph 3.B.2 of this Supplemental Decree, the irrigation ditches on Navajo Nation trust
2 lands that are associated with tributary irrigation rights described by subparagraph 3.B.1 of this
3 Supplemental Decree, and the lakes, streams or other existing water sources on Navajo Nation trust
4 lands within the San Juan River Basin in New Mexico. The foregoing diversion and associated
5 depletion amounts do not include diversions made for livestock uses under the Navajo Nation's
6 water rights pursuant to the Decree, or diversions made to fill and refill the stock ponds described by
7 subparagraph 3.A.1 of this Supplemental Decree or the irrigation reservoirs described by
8 subparagraph 3.B.2 of this Supplemental Decree.

9 B. IRRIGATION WATER USE

10 1. IRRIGATION DIVERSION AND DEPLETION

11 The Navajo Nation has the following rights to divert the waters of the San Juan River Basin
12 in New Mexico for irrigation uses:

13 (a) IRRIGATION PROJECT USES IN THE CHACO RIVER DRAINAGE:

14 The total combined amount of diversion by the Navajo Nation from tributaries to the
15 San Juan River or from ground water sources within the Chaco River drainage under the
16 following irrigation rights shall not exceed a total combined annual diversion of 23,635 acre-
17 feet per year, or a total combined annual depletion at the places of use of 9,032 acre-feet per
18 year, on any or all of the 7,337.3 acres of land within the irrigation projects described below.

19 (1) SANOSTEE PROJECT, an annual diversion of 2,725 acre-feet, or an
20 annual depletion at the place of use of 1,121 acre-feet, of surface water from Sanostee
21 Wash at the diversion works for the project based upon irrigation of 581 acres
22 within 1,286.9 acres of land that constitute the project area as described by the US

1 Survey;

2 (2) TOCITO PROJECT, an annual diversion of 783 acre-feet, or an
3 annual depletion at the place of use of 284 acre-feet, of surface water from Tocito
4 Wash at the diversion works for the project based upon irrigation of 148 acres within
5 231.4 acres of land that constitute the project area as described by the US Survey;

6 (3) TOCITO SPRINGS PROJECT, an annual diversion of 105 acre-feet,
7 or an annual depletion at the place of use of 59 acre-feet, of water from Tocito
8 Springs at the diversion works for the project based upon irrigation of 30 acres within
9 46.5 acres of land that constitute the project area as described by the US Survey;

10 (4) TOH AL SISSY PROJECT, an annual diversion of 792 acre-feet, or
11 an annual depletion at the place of use of 388 acre-feet, of surface water from
12 Sanostee Wash at the diversion works for the project based upon irrigation of 197
13 acres within 276.2 acres of land that constitute the project area as described by the
14 US Survey;

15 (5) TOCITO LAKE PROJECT, an annual diversion of 143 acre-feet, or
16 an annual depletion at the place of use of 53 acre-feet, of surface water from a
17 tributary to Tocito Wash at the diversion works for the project based upon irrigation
18 of 38 acres within 42.9 acres of land that constitute the project area as described by
19 the US Survey;

20 (6) PORCUPINE CANYON PROJECT, an annual diversion of 10 acre-
21 feet, or an annual depletion at the place of use of 6 acre-feet, of surface water from
22 Porcupine Canyon at the diversion works for the project based upon irrigation of 3.3

1 acres within 4.3 acres of land that constitute the project area as described by the US
2 Survey;

3 (7) STINKING WATER PROJECT, an annual diversion of 156 acre-feet,
4 or an annual depletion at the place of use of 76 acre-feet, of surface water from a
5 tributary to Pena Blanca Arroyo at the diversion works for the project based upon
6 irrigation of 40 acres within 43.8 acres of land that constitute the project area as
7 described by the US Survey;

8 (8) SHEEP DIP RESERVOIR PROJECT, an annual diversion of 152
9 acre-feet, or an annual depletion at the place of use of 76 acre-feet, of surface water
10 from To-bilhask-idi Wash or Tse-yaa-tohi Wash at the diversion works for the
11 project based upon irrigation of 40 acres within 70.2 acres of land that constitute the
12 project area as described by the US Survey;

13 (9) RED ROCK CANYON PROJECTS, an annual diversion of 616 acre-
14 feet, or an annual depletion at the place of use of 300 acre-feet, of surface water from
15 Tse-nas-chii Wash or Tse-yaa-tohi Wash at the diversion works for the projects based
16 upon irrigation of 158 acres within 229.5 acres of land that constitute the project
17 areas as described by the US Survey;

18 (10) TOADLENA AND TOADLENA NE PROJECTS, a total annual
19 diversion of 1,180 acre-feet, or a total annual depletion at the place of use of 412
20 acre-feet, of surface water from To-dil-hil Wash at the diversion works for the
21 projects for irrigation of 222.6 acres of land that constitute the project areas as
22 described by the US Survey;

1 (11) SAND SPRINGS PROJECT, an annual diversion of 15 acre-feet, or
2 an annual depletion at the place of use of 9 acre-feet, of ground water at the diversion
3 works for the project based upon irrigation of 4.6 acres within 6.4 acres of land that
4 constitute the project area as described by the US Survey;

5 (12) UPPER CAPTAIN TOM AND LOWER CAPTAIN TOM
6 PROJECTS, a total annual diversion of 6,275 acre-feet to be measured below Captain
7 Tom Reservoir, or a total annual depletion at the place of use of 2,250 acre-feet, of
8 surface water from Captain Tom Wash or To-dil-hil Wash at the diversion works for
9 the projects based upon irrigation of 1,184 acres within 2,008.8 acres of land that
10 constitute the project areas as described by the US Survey;

11 (13) GREY MESA AND TWO GREY HILLS PROJECTS, a total annual
12 diversion of 3,758 acre-feet, or a total annual depletion at the place of use of 1,305
13 acre-feet, of surface water from Captain Tom Wash or its tributaries at the diversion
14 works for the projects based upon irrigation of 709 acres within 878.3 acres of land
15 that constitute the project areas as described by the US Survey;

16 (14) SHEEP SPRINGS PROJECT, an annual diversion of 971 acre-feet, or
17 an annual depletion at the place of use of 396 acre-feet, of surface water from Tuntsa
18 Wash at the diversion works for the project for irrigation of 216.3 acres of land that
19 constitute the project area as described by the US Survey;

20 (15) NASCHITTI NORTHERN PROJECT, an annual diversion of 682
21 acre-feet, or an annual depletion at the place of use of 243 acre-feet, of surface water
22 from a tributary to Coyote Wash at the diversion works for the project for irrigation

1 of 136.3 acres of land that constitute the project area as described by the US Survey;

2 (16) NASCHITTI DROLET PROJECT, an annual diversion of 402 acre-
3 feet, or an annual depletion at the place of use of 191 acre-feet, of surface water from
4 Naschitti Wash at the diversion works for the project for irrigation of 108.6 acres of
5 land that constitute the project area as described by the US Survey;

6 (17) NASCHITTI SOUTHERN PROJECT, an annual diversion of 123
7 acre-feet, or an annual depletion at the place of use of 58 acre-feet, of surface water
8 from a tributary to Naschitti Wash at the diversion works for the project based upon
9 irrigation of 33 acres within 142.4 acres of land that constitute the project area as
10 described by the US Survey;

11 (18) LONG LAKE PROJECT, an annual diversion of 158 acre-feet, or an
12 annual depletion at the place of use of 53 acre-feet, of surface water from Naschitti
13 Wash in any one year at the diversion works for the project based upon irrigation of
14 30 acres within 43.0 acres of land that constitute the project area as described by the
15 US Survey;

16 (19) CHOISKA (RED WILLOW) PROJECT, an annual diversion of 3,975
17 acre-feet measured below Chuska Lake, or an annual depletion at the place of use of
18 1,418 acre-feet, of surface water from Red Willow Wash or its tributaries at the
19 diversion works for the project based upon irrigation of 750 acres within 965.6 acres
20 of land that constitute the project area as described by the US Survey;

21 (20) WELL 14 MILE PROJECT, an annual diversion of 211 acre-feet, or
22 an annual depletion at the place of use of 110 acre-feet, of ground water at the well

1 for the project based upon irrigation of 59 acres within 110.0 acres of land that
2 constitute the project area as described by the US Survey;

3 (21) WELL 14A-79 PROJECT, an annual diversion of 118 acre-feet, or an
4 annual depletion at the place of use of 62 acre-feet, of ground water at the well for the
5 project based upon irrigation of 34 acres within 79.9 acres of land that constitute the
6 project area as described by the US Survey;

7 (22) WHITE ROCK PROJECT, an annual diversion of 69 acre-feet, or an
8 annual depletion at the place of use of 36 acre-feet, of ground water from the well for
9 the project based upon irrigation of 20 acres within 41.5 acres of land that constitute
10 the project area as described by the US Survey;

11 (23) LAKE VALLEY PROJECT, an annual diversion of 116 acre-feet, or
12 an annual depletion at the place of use of 70 acre-feet, of surface water from Kim-
13 me-ni-oli Wash at the diversion works for the project based upon irrigation of 40
14 acres within 75.0 acres of land that constitute the project area as described by the US
15 Survey;

16 (24) STANDING ROCK PROJECT, an annual diversion of 47 acre-feet,
17 or an annual depletion at the place of use of 27 acre-feet of surface water from
18 Standing Rock Wash at the diversion works for the project based upon irrigation of
19 15 acres within 36.4 acres of land that constitute the project area as described by the
20 US Survey;

21 (25) CROWNPOINT SCHOOL PROJECT, an annual diversion of 53 acre-
22 feet, or an annual depletion at the place of use of 32 acre-feet, of ground water from

1 the well for the project based upon irrigation of 18 acres within 34.5 acres of land
2 that constitute the project area as described by the US Survey;

3 (b) IRRIGATION PROJECT USES IN THE SAN JUAN RIVER DRAINAGE BELOW
4 THE CHACO RIVER CONFLUENCE AND FOUR CORNERS:

5 The total combined amount of diversion by the Navajo Nation from tributaries to the
6 San Juan River within the San Juan River drainage between the Chaco River confluence and
7 Four Corners under the following irrigation rights shall not exceed a total combined annual
8 diversion of 322 acre-feet per year, or a total combined annual depletion at the places of use
9 of 157 acre-feet per year, on any or all of the 84.3 acres of land within the irrigation projects
10 described below.

11 (1) BECLABITO PROJECT, an annual diversion of 185 acre-feet, or an
12 annual depletion at the place of use of 93 acre-feet, of surface water from Shoe Game
13 Wash at the diversion works for the project for irrigation of 44.4 acres of land that
14 constitute the project area as described by the US Survey;

15 (2) RED WASH PROJECT, an annual diversion of 137 acre-feet, or an
16 annual depletion at the place of use of 64 acre-feet, of surface water from Red Wash
17 at the diversion works for the project based upon irrigation of 30 acres within 39.9
18 acres of land that constitute the project area as described by the US Survey;

19 (c) IRRIGATION PROJECT USES IN THE CHINLE WASH DRAINAGE:

20 The total combined amount of diversion by the Navajo Nation from tributaries to the
21 San Juan River within the Chinle Wash drainage under the following irrigation rights shall
22 not exceed a total combined annual diversion of 910 acre-feet per year, or a total combined

1 annual depletion at the places of use of 477 acre-feet per year, on any or all of the 597.6 acres
2 of land within the irrigation projects described below.

3 (1) WHISKEY CREEK PROJECT, an annual diversion of 101 acre-feet,
4 or an annual depletion at the place of use of 51 acre-feet, of surface water from Little
5 Whiskey Creek at the diversion works for the project based upon irrigation of 36.9
6 acres of land that constitute the project area as described by the US Survey;

7 (2) CRYSTAL, LOWER CRYSTAL AND COYOTE WASH
8 PROJECTS, an annual diversion of 809 acre-feet, or an annual depletion at the place
9 of use of 426 acre-feet, of surface water from Crystal Creek or its tributaries at the
10 diversion works for the projects based upon irrigation of 286 acres within 560.7 acres
11 of land that constitute the project areas as described by the US Survey;

12 (d) MISCELLANEOUS IRRIGATION USES IN THE CHACO RIVER AND CHINLE
13 WASH DRAINAGES:

14 The total combined amount of diversion by the Navajo Nation from tributaries to the
15 San Juan River or from ground water sources within the San Juan River Basin under the
16 following irrigation rights shall not exceed a total combined annual diversion of 1,523 acre-
17 feet per year, or a total combined annual depletion at the places of use of 913 acre-feet per
18 year, on any or all of the 1,384.6 acres of land within the irrigation areas described below.

19 (1) MISCELLANEOUS SURFACE WATER IRRIGATION USES IN
20 THE CHACO RIVER DRAINAGE, a total combined diversion of 1,407 acre-feet, or
21 a total combined depletion at the places of use of 843 acre-feet, of surface water from
22 streams or springs at the places of use at the diversion works based on irrigation of

1 477 acres within 1,299.2 acres of land in the drainage identified by the US Survey as
2 tributary non-project irrigation uses irrigated by diversions or springs, with the
3 springs developed for irrigation identified in Appendix F, table F-2, of the US
4 Survey;

5 (2) MISCELLANEOUS GROUND WATER IRRIGATION USES IN
6 THE CHACO RIVER DRAINAGE, a total combined diversion of 105 acre-feet, or a
7 total combined depletion at the places of use of 64 acre-feet, of ground water from
8 sources at the places of use based on irrigation of 34 acres within 54.8 acres of land
9 in the drainage identified by the US Survey as tributary non-project irrigation uses
10 irrigated by wells;

11 (3) MISCELLANEOUS SURFACE WATER IRRIGATION USES IN
12 THE CHINLE WASH DRAINAGE, a total combined diversion of 11 acre-feet, or a
13 total combined annual depletion at the places of use of 7 acre-feet, of surface water
14 from streams or springs local to the places of use at the diversion works based on
15 irrigation of 5 acres within 30.6 acres of land in the drainage identified by the US
16 Survey as tributary non-project irrigation uses irrigated by diversions or springs, with
17 the springs developed for irrigation identified in Appendix F, table F-2, of the US
18 Survey.

19 The foregoing annual depletion amounts in subparagraphs 3.B.1(a) through 3.B.1(d) above
20 include the depletion at the places of use caused by the irrigation use of water and any depletion
21 incident to the use. The depletions resulting from the storage of water in irrigation reservoirs are
22 included in subparagraph 3.B.2 below and are excluded from the foregoing depletion amounts. The

1 farm delivery requirements associated with the Navajo Nation's rights to divert water for the
2 foregoing irrigation uses are: 3.00 acre-feet per acre per year for uses within the Chaco River
3 drainage described by subparagraphs 3.B.1(a), 3.B.1(d)(1) and 3.B.1(d)(2); 3.65 acre-feet per acre
4 per year for uses within the San Juan River drainage between the Chaco River confluence and Four
5 Corners described by subparagraph 3.B.1(b); and 2.55 acre-feet per acre per year for uses within the
6 Chinle Wash drainage described by subparagraphs 3.B.1(c) and 3.B.1(d)(3).

7 The lands with irrigation water rights described by subparagraphs 3.B.1(a) through 3.B.1(d)
8 are shown in Appendix E, maps E-13 through E-64, and tabulated in Appendix I, table I-1, and
9 Appendix J, table J-1, of the US Survey. The use of surface water under the irrigation rights
10 described in these subparagraphs may be supplemented with existing local diversions from wells
11 identified in Appendix F, table F-1, of the US Survey; provided, that the total combined annual
12 amount of diversion from surface water and supplemental ground water to supply irrigation uses
13 does not cause the diversion or depletion limits described herein to be exceeded. However, the
14 Navajo Nation's diversions for the irrigation water uses described in subparagraphs 3.B.1(a) through
15 3.B.1(d) shall be subject to the annual diversion quantities specified therein only if the New Mexico
16 State Engineer or the Court enforces annual diversion quantity limits on non-Navajo Nation
17 irrigation diversions in the San Juan River Basin in New Mexico.

18 Notwithstanding provisions in subparagraph 12(b), the respective diversion and depletion
19 rights for the projects within each drainage area described in the respective subparagraphs 3.B.1(a)
20 through 3.B.1(c) may be exercised within any of the irrigation project areas described within each
21 drainage from the existing sources of supply for the projects; provided, that in no event shall the
22 acres irrigated within any irrigation project exceed that project's total project area. Notwithstanding

1 the provisions of subparagraph 17(c)(3) of the Decree, the Navajo Nation may change the source of
2 supply and place or purpose of use from irrigation of up to 300 acres from the project areas identified
3 in subparagraphs 3.B.1(a) through 3.B.1(c) to irrigation or livestock water uses on lands held in trust
4 by the United States for the Navajo Nation within the San Juan River Basin in New Mexico from any
5 water source other than from the San Juan River, the Animas River or the La Plata River, provided
6 that any such change shall otherwise comply with the provisions of subparagraph 17(c) of the
7 Decree. Also, notwithstanding the provisions of subparagraph 17(c)(3) of the Decree, the diversion
8 and depletion rights for the miscellaneous irrigation uses described in subparagraph 3.B.1(d) may be
9 exercised for irrigation or livestock water uses on lands held in trust by the United States for the
10 Navajo Nation within the San Juan River Basin in New Mexico from any source of supply on those
11 lands other than from the San Juan River, the Animas River or the La Plata River, provided that any
12 change in the points of diversion or places of use of the irrigation rights described in subparagraph
13 3.B.1(d) shall otherwise comply with the provisions of paragraph 17(c) of the Decree and shall not
14 cause the total combined uses under subparagraph 3.B.1(d) to exceed a total combined annual
15 diversion of 1,523 acre-feet per year, or a total combined annual depletion at the places of use of 913
16 acre-feet per year.

17
18 2. IRRIGATION RESERVOIR STORAGE

19 The Navajo Nation has the following rights to fill and refill irrigation reservoirs on lands held
20 by the United States in trust on behalf of the Navajo Nation that are supplied from water sources
21 other than the San Juan River:

22 (a) IRRIGATION RESERVOIRS IN THE CHACO RIVER DRAINAGE, storage

1 of water at up to 78 irrigation reservoirs, including 73 irrigation reservoirs identified by the
2 US Survey and the reservoirs designated therein as stock ponds at the locations labeled P-
3 0039, P-0042, P-0257, P-1823 and P-5072, from existing surface water, spring, or ground
4 water sources at each identified location, not to exceed a total combined maximum annual
5 net evaporation depletion of 2,691 acre-feet based on a total combined storage volume of
6 6,196 acre-feet;

7 (b) IRRIGATION RESERVOIRS IN DRAINAGES TRIBUTARY TO THE SAN
8 JUAN RIVER BETWEEN THE CHACO RIVER CONFLUENCE AND FOUR CORNERS,
9 storage of water at up to 4 irrigation reservoirs identified by the US Survey from existing
10 surface water, spring, or ground water sources at each identified location, not to exceed a
11 total combined maximum annual net evaporation depletion of 51 acre-feet based on a total
12 combined storage volume of 25 acre-feet; and

13 (c) IRRIGATION RESERVOIRS IN THE CHINLE WASH DRAINAGE,
14 storage of water at up to 7 irrigation reservoirs, including 6 irrigation reservoirs identified by
15 the US Survey and the reservoir designated therein as a stock pond at the location labeled P-
16 1092, from existing surface water, spring, or ground water sources at each identified location,
17 not to exceed a total combined maximum annual net evaporation depletion of 122 acre-feet
18 based on a total combined storage volume of 87 acre-feet.

19 The locations and sources for each irrigation reservoir are described by Appendix B maps and
20 Appendix F, table F-3, or Appendix M, table M-3, of the US Survey. Water stored in these irrigation
21 reservoirs may be used for stock watering purposes in addition to irrigation. The Navajo Nation may
22 store water up to the full capacity of any of the irrigation reservoirs referenced in subparagraphs

1 3.B.2(a) through 3.B.2(c).

2 **4. WATER RIGHTS ACQUIRED UNDER STATE LAW.**

3 The Navajo Nation has water rights acquired under New Mexico state law pursuant to
4 decreed rights or to permits or licenses issued by the New Mexico State Engineer, and for historic
5 and existing water uses on lands in the San Juan River Basin in New Mexico that are held in fee
6 ownership by the Nation. Such rights are described in this Supplemental Decree, and exclude rights
7 to the use of water historically made by non-Navajo entities on Navajo lands under permits issued by
8 the New Mexico State Engineer that have not been acquired from said entities by the Navajo Nation.

9 Water rights for historic municipal, industrial, commercial or domestic uses, except for *de minimus*
10 uses under paragraph 10 of the Decree, that have been made on lands which are held in fee
11 ownership by the Navajo Nation and that have not been made pursuant to decreed rights, or to
12 permits or licenses issued by the New Mexico State Engineer, are included in the total water right
13 amounts specified by subparagraphs 3(b), 3(c), 3(d) and 7(a) of the Decree. The total annual
14 quantities of water to which the Navajo Nation has a water right under state law as described by this
15 Supplemental Decree shall not exceed an annual diversion of 2,197 acre-feet or an annual depletion
16 at the places of use of 1,371 acre-feet for uses other than reservoir storage described in subparagraph
17 4.A.1 below, or a net evaporation from stock ponds of 1,404 acre-feet. The term "depletion" refers
18 to the depletion caused by a particular use of water including any depletion incident to the use.

19 These water rights and the priority dates are described below and constitute rights described
20 in paragraph 9 of the Decree. The following descriptions are not intended to prohibit changes in the
21 point of diversion or purpose or place of use of the Navajo Nation's water rights under Federal and
22 state law, nor are they intended to limit in any way the right and ability of the Navajo Nation to

1 acquire and transfer additional water rights perfected under state law. The conditions under which
2 the Navajo Nation may make such changes are specified in paragraph 12 of this Supplemental
3 Decree and are subject to the Court's continuing jurisdiction to interpret and enforce this
4 Supplemental Decree as provided in paragraph 14 of the Decree and paragraph 9 of this
5 Supplemental Decree.

6 A. LIVESTOCK WATER USE

7 1. STOCK PONDS

8 The Navajo Nation has the following rights with a priority date of January 1, 1935, to fill and
9 refill stock ponds on lands held by the Navajo Nation in fee that are supplied from water sources
10 other than the San Juan River:

11 (a) STOCK PONDS IN DRAINAGES TRIBUTARY TO THE SAN JUAN
12 RIVER ABOVE THE CHACO RIVER CONFLUENCE: storage of water at up to 53 stock
13 ponds identified by the US Survey from existing surface, spring, or ground water sources at
14 each identified location, with a total combined maximum annual net evaporation depletion of
15 216 acre-feet based on a total combined volume of 143 acre-feet; and

16 (b) STOCK PONDS IN THE CHACO RIVER DRAINAGE, storage of water at
17 up to 248 stock ponds identified by the US Survey from existing surface, spring, or ground
18 water sources at each identified location, with a total combined maximum annual net
19 evaporation depletion of 1,188 acre-feet based on a total combined volume of 601 acre-feet.

20 The locations and sources for each stock pond are described by Appendix B maps and
21 Appendix M, table M-3, of the US Survey. The Navajo Nation may store water up to the full
22 capacity of any of the stock ponds referenced in subparagraphs (a) through (b).

1 2. STOCK USE

2 The Navajo Nation has the right with a priority date of January 1, 1935, to divert from
3 existing water sources on lands held by the Navajo Nation in fee a total combined annual amount of
4 35 acre-feet, or an annual depletion by stock watering use from all stock watering sources at the
5 places of use of 35 acre-feet, based on livestock use for 3,000 animal units. Locations of existing
6 stock wells and springs are described by Appendix B maps and Appendix M, table M-1 and table M-
7 2, respectively, of the US Survey. This right includes all stock water consumption and incidental
8 depletions from the stock wells on Navajo Nation fee lands listed in table M-1 of the US Survey, the
9 stock springs on Navajo Nation trust lands listed in table M-2 of the US Survey, the stock ponds on
10 Navajo Nation fee lands that the Navajo Nation has the right to fill pursuant to subparagraph 4.A.1 of
11 this Supplemental Decree, the irrigation well on Navajo Nation fee lands listed in table F-1 of the
12 US Survey, the irrigation spring on Navajo Nation fee lands listed in table F-2 of the US Survey,
13 irrigation ditches on Navajo Nation fee lands that are associated with tributary irrigation use rights
14 described by subparagraph 4.B of this Supplemental Decree, and the lakes, streams or other existing
15 water sources on Navajo Nation fee lands within the San Juan River Basin in New Mexico. The
16 foregoing diversion and associated depletion amounts do not include diversions made for livestock
17 uses under the Navajo Nation's water rights pursuant to the Decree, or diversions made to fill and
18 refill the stock ponds described by subparagraph 4.A.1 of this Supplemental Decree.

19 B. IRRIGATION WATER USE

20 The Navajo Nation has the following rights to divert the waters of the San Juan River Basin
21 in New Mexico for irrigation uses not to exceed:

- 22 (1) I.K. WESTBROOK-INDIAN CREEK PROJECT, with a priority date of

1 March 3, 1934:

2 (a) an annual diversion of 386 acre-feet, or an annual depletion at the
3 place of use of 232 acre-feet, of surface water from Seven Lakes Wash by the
4 spreading of floodwaters as available at spreader dams on the project for irrigation of
5 140.9 acres of land held by the United States in trust on behalf of the Navajo Nation
6 within the project area described at page 376 of the Judgment in *The Echo Ditch*
7 *Company. et al., v. The McDermott Ditch Company, et al.*, New Mexico District
8 Court, San Juan County, Cause No. 01690 (Echo Ditch Decree), and Map Sheets 85-
9 87 of the 1938 San Juan River Hydrographic Survey prepared by the Office of the
10 State Engineer, such rights being reserved rights which are held in trust by the United
11 States on behalf of the Navajo Nation; and

12 (b) an annual diversion of 1,576 acre-feet, or an annual depletion at the
13 place of use of 949 acre-feet, of surface water from Seven Lakes Wash by the
14 spreading of floodwaters as available at spreader dams on the project for irrigation of
15 575.2 acres of land held by the Navajo Nation in fee within the project area described
16 at page 376 of the Echo Ditch Decree, and Map Sheets 85-87 of the 1938 San Juan
17 River Hydrographic Survey prepared by the Office of the State Engineer; and

18 (2) I.K. WESTBROOK-KIN KLIZHIN WASH PROJECT, with a priority date of
19 July 27, 1931, an annual diversion of 114 acre-feet, or an annual depletion at the place of use
20 of 68 acre-feet, of surface water from Kin Klizhin Wash by the spreading of floodwaters as
21 available at spreader dams on the project for irrigation of 40.5 acres of land held by the
22 United States in trust on behalf of the Navajo Nation within the portion of the project area

1 described at Map Sheets 85-87 of the 1938 San Juan River Hydrographic Survey prepared by
2 the Office of the State Engineer, such rights being reserved rights which are held in trust by
3 the United States on behalf of the Navajo Nation.

4 The foregoing annual depletion amounts in subparagraphs 4.B(1) and 4.B(2) include the
5 depletions at the places of use caused by the irrigation use of water and any depletion incident to the
6 use. The farm delivery requirement associated with the Navajo Nation's rights to divert water for the
7 foregoing irrigation uses is 2.80 acre-feet per acre per year. The lands with irrigation water rights
8 described by subparagraphs 4.B(1) and 4.B(2) are shown in Appendix E, maps E-32, E-40 and E-48,
9 and tabulated in Appendix I, table I-1, of the US Survey.

10 Based upon total combined irrigation of 756.6 acres as described above, the total combined
11 amount of diversion by the Navajo Nation from tributaries to the San Juan River within the Chaco
12 River drainage for irrigation uses pursuant to rights acquired under state law shall not exceed a total
13 combined annual diversion of 2,076 acre-feet , or a total combined annual depletion at the places of
14 use of 1,250 acre-feet; except, that the Navajo Nation's diversions for the irrigation water uses
15 described in subparagraph 4.B shall be subject to the annual diversion quantities specified therein
16 only if the New Mexico State Engineer or the Court enforces annual diversion quantity limits on
17 non-Navajo Nation irrigation diversions in the San Juan River Basin in New Mexico.

18 C. INDUSTRIAL AND DOMESTIC WATER USE

19 The Navajo Nation has the right pursuant to State Engineer File Nos. SJ-43, SJ-44 and SJ-58
20 to divert and deplete ground water in the NE ¼ of Section 9, Township 19N, Range 17W, N.M.P.M,
21 for industrial and domestic uses with a priority date of March 1953 in a total combined maximum
22 annual amount of 86 acre-feet.

1 **5. DEPLETION LIMITS.**

2 (a) The use of water by the Navajo Nation pursuant to the water rights described
3 in paragraphs 3 and 4, not including subparagraphs 3.A.2 and 4.A.2, shall not exceed an
4 average annual total combined depletion during any period of ten consecutive years at the
5 places of use of 8,355 acre-feet, of which no more than 199 acre-feet of depletion per year
6 may occur in the San Juan River drainage above the Chaco River confluence, no more than
7 7,576 acre-feet per year may occur in the Chaco River drainage, no more than 175 acre-feet
8 per year may occur in the San Juan River drainage below the Chaco River confluence, and no
9 more than 405 acre-feet per year may occur in the Chinle Wash drainage.

10 (b) The use of water by the Navajo Nation pursuant to the water rights described
11 in paragraphs 3 and 4 shall not exceed an average annual total combined depletion during any
12 period of ten consecutive years of flow of the San Juan River of 1,819 acre-feet. This
13 depletion limit may be adjusted to reflect any change in methodology adopted by the State
14 Engineer for calculating depletion effects on the flow of the San Juan River from the use of
15 water pursuant to the water rights described in paragraphs 3 and 4; provided, that the average
16 annual total combined depletion limit on the flow of the San Juan River shall not be reduced
17 below 1,819 acre-feet or increased to an amount that is greater than 50 percent of the average
18 annual total combined depletion limit described in subparagraph 5(a).

19 (c) The Navajo Nation's rights to divert and deplete water for irrigation uses
20 under subparagraphs 3.B.1 and 4.B may be recalculated if the technical methodology adopted
21 by the Court to determine irrigation water requirements for non-Navajo water rights differs
22 from the methodology utilized for the Echo Ditch Decree and would result in greater annual

1 diversion and depletion quantities or annual farm delivery requirements for the Navajo
2 Nation's water rights than those decreed herein. In that event, the State of New Mexico, the
3 Navajo Nation and the United States shall prepare and submit to the Court a proposed
4 addendum to this Supplemental Decree setting forth:

5 (1) the revised diversion and depletion amounts and farm delivery requirements
6 for the Navajo Nation's irrigation rights under subparagraphs 3.B.1 and 4.B, recalculated in a
7 manner consistent with the methodology adopted by the Court; and

8 (2) the State Engineer's revision of annual depletion limits for subparagraphs 5(a)
9 and 5(b) recalculated based on the revised diversion and depletion amounts and farm delivery
10 requirements.

11 **6. ALLOTTEES.**

12 Individual members of the Navajo Nation that have been allotted lands by the United States
13 within the San Juan River Basin in New Mexico may have claims to reserved rights to the use of
14 water. This decree does not quantify the nature, extent or priority of such rights. To the extent that
15 water rights are adjudicated by the Court for such allotted lands in excess of historic and existing
16 water uses on those lands as of the date of entry of this Supplemental Decree, such water rights for
17 allotted lands shall be fulfilled or serviced by rights of the Navajo Nation quantified in the Decree or
18 in this Supplemental Decree, or the depletions of flow of the San Juan River resulting from the use
19 of water under such rights for allotted lands shall be fully offset by a forbearance of use of rights of
20 the Navajo Nation quantified in the Decree or in this Supplemental Decree. Nothing in this
21 paragraph shall create a right of any Allottee to delivery of water by the Navajo Nation.

22 **7. LIMITATIONS.**

1 The Navajo Nation is hereby enjoined from the diversion or depletion of the surface or
2 underground waters within the San Juan River Basin in New Mexico except in accordance with the
3 rights described in the Decree and this Supplemental Decree ("the Decrees"), rights in any
4 supplemental orders or decrees adjudicating water rights acquired by the Navajo Nation after entry of
5 the Decrees, or rights under New Mexico State Engineer permits or licenses that are acquired after
6 the date of entry of this Supplemental Decree; except, that to the extent the Navajo Nation prior to
7 entry of this Supplemental Decree has acquired state-based water rights supplied by non-Navajo
8 Nation ditches diverting water from the San Juan River or Animas River, which rights are claimed
9 by the Navajo Nation but are not specifically described by the Decrees, those water right claims will
10 be adjudicated at the time all rights served by these ditches are adjudicated. Beneficial use shall be
11 the limit of the rights to use water adjudicated to the Navajo Nation by this Supplemental Decree.
12 The Navajo Nation shall not be entitled to receive, nor shall the United States or the State of New
13 Mexico be required to deliver, nor shall non-Navajo Nation water users be required to curtail water
14 uses to provide to the Navajo Nation, any water not then necessary for beneficial use under the rights
15 adjudicated herein or acquired hereafter.

16 This Supplemental Decree shall not be construed to prohibit the Navajo Nation or its
17 members from engaging in the traditional agricultural practices of planting crops across the active
18 channel of ephemeral streams in the San Juan River Basin so long as these practices do not divert
19 and control water. These agricultural practices do not constitute the basis for a water right and may
20 continue without administration by the State of New Mexico.

21 This Supplemental Decree is binding upon political subdivisions, utilities, agencies and other
22 entities of the Navajo Nation and the United States, and on successors and assigns.

1 **8. DISCLAIMERS.**

2 Except as explicitly provided herein, nothing in this Supplemental Decree confers jurisdiction
3 on the New Mexico State Engineer to administer or regulate the use of federally reserved rights on
4 lands held in trust by the United States on behalf of the Navajo Nation or lands allotted by the United
5 States to members of the Navajo Nation. Because the description of the Navajo Nation's water rights
6 adjudicated in this Supplemental Decree is based upon a negotiated settlement, the procedures and
7 methods used to quantify and describe the Navajo Nation's water rights in this Supplemental Decree
8 shall not be binding under the law of the case doctrine upon any other water right claimant, the State
9 of New Mexico, or the United States in the adjudication of other water rights in this case and should
10 not be relied upon as precedent under the *stare decisis* doctrine in any other water right adjudication
11 suit.

12 **9. JURISDICTION AFTER ENTRY OF DECREE.**

13 This Supplemental Decree is a final order under Rule 1-054(B) NMRA, and it may be
14 modified only pursuant to Rule 1-060(B) NMRA. This Court retains jurisdiction to interpret and
15 enforce this Supplemental Decree. Subject to the provisions of the Decree and this Supplemental
16 Decree, the State Engineer has authority under state law to administer water rights within, and to
17 supervise the apportionment, diversion and use of the surface and underground waters of, the San
18 Juan River Basin in New Mexico, including by appointment of watermasters, according to the orders
19 and decrees of the Court in the Stream Adjudication and the licenses and permits issued by the State
20 Engineer in the Basin.

21 **10. METERING OF WATER USES.**

22 As part of the metering and monitoring of water uses in the San Juan River Basin in New

1 Mexico, the Navajo Nation shall be responsible for metering and monitoring its uses of water under
2 this Supplemental Decree as follows:

3 (a) The Navajo Nation within two years from the date of entry of this
4 Supplemental Decree shall cause to be installed and maintained flumes, gages, stage
5 recorders, totalizing meters or other flow measuring devices on surface water and ground
6 water diversions within the physical drainage of the San Juan River Basin in New Mexico
7 made pursuant to the rights adjudicated by this Supplemental Decree; except, that diversions
8 may be estimated using technically sound methodologies where actual measurement of uses
9 is not practical for technical or economic reasons. The Navajo Nation shall be responsible
10 for rating all gages and for collecting the data necessary to reasonably account diversions and
11 depletions in the San Juan River Basin in New Mexico for administration by the State
12 Engineer of this Supplemental Decree.

13 (b) The Navajo Nation within two years from the date of entry of this
14 Supplemental Decree shall cause to be installed and maintained staff gages at Whiskey Lake,
15 Chuska Lake, Long Lake and Captain Tom Reservoir, and shall thereafter make observations
16 of the lake levels in these reservoirs each year near the beginning, middle and end of the
17 irrigation season. The Navajo Nation also shall maintain elevation, area and capacity data for
18 these reservoirs for the purpose of measuring the amounts of water in storage based on the
19 observed lake levels. The amounts of water in storage at other reservoirs may be estimated
20 using technically sound methodologies where actual measurement of storage is not practical
21 for technical or economic reasons.

22 (c) The New Mexico State Engineer shall be granted access to diversion and

1 storage data, and shall be allowed to inspect flow and storage measurement facilities and
2 gages upon reasonable request to the Navajo Nation, as may be necessary for the State
3 Engineer to administer the diversion and use of water from the San Juan River stream
4 system.

5 (d) The Navajo Nation beginning the year following the date of entry of this
6 Supplemental Decree shall during June or July each year conduct a field inventory of
7 irrigated acreage on Navajo lands in the San Juan River Basin in New Mexico for the
8 irrigation uses made pursuant to this Supplemental Decree, and shall provide the results of
9 the inventory to the New Mexico State Engineer within two weeks of completion of the
10 inventory. The Navajo Nation shall allow the State Engineer to participate, in cooperation
11 with the Navajo Nation, in conducting the acreage inventory. The Navajo Nation may use
12 technically sound methodologies to estimate acreage and crops irrigated on lands that are the
13 subject of this Supplemental Decree and that are not practical to field check every year for
14 economic reasons. Aerial photographs, satellite imagery, or other records or documentation
15 may be used in conjunction with field surveys to determine or verify lands irrigated in a
16 particular year.

17 (e) The Navajo Nation shall meter or estimate farm deliveries for irrigation uses
18 under the rights decreed herein using technically sound methods if the State Engineer or the
19 Court determines such information to be necessary for the State Engineer to administer water
20 rights in the San Juan River Basin in New Mexico.

21 **11. RECORDS OF WATER USE.**

22 The Navajo Nation shall within two years from the date of entry of this Supplemental Decree,

1 and annually thereafter, prepare and maintain detailed and accurate records of acres irrigated each
2 year and the annual diversions and depletions of water on all Navajo Nation lands , including lands
3 held in trust by the United States on behalf of the Navajo Nation and lands owned by the Navajo
4 Nation in fee, in the San Juan River Basin in New Mexico from San Juan River tributaries or
5 underground water sources pursuant to this Supplemental Decree, all stated separately as to each
6 source of water as necessary to allow for administration of this Supplemental Decree. The Navajo
7 Nation shall prepare and submit to the Secretary of the Interior and the New Mexico State Engineer
8 on or before October 1 of each year a report of its records and calculations of actual acreage irrigated
9 and diversions and depletions, by a methodology acceptable to the State Engineer, of San Juan River
10 Basin waters for the previous calendar year. In addition, the Navajo Nation's annual report shall
11 include, to the extent that it is available, information regarding stock ponds and irrigation reservoirs
12 that were capable of storing water during the previous calendar year stated separately by the San Juan
13 River drainage above the Chaco River confluence, the Chaco River drainage, the San Juan River
14 drainage between the Chaco River confluence and Four Corners, and the Chinle Wash drainage. The
15 records and calculations shall be segregated by each use specified in paragraphs 3 and 4 of this
16 Supplemental Decree. Diversions and depletions for livestock water uses pursuant to subparagraphs
17 3.A and 4.A, and for other water uses to be reported under this paragraph, may be estimated using
18 technically sound methodologies acceptable to the State Engineer where actual measurement of uses
19 is not practical for technical or economic reasons. The reports of the Navajo Nation prepared
20 pursuant to this paragraph also shall include documentation as to which rights adjudicated by the
21 Decree or by this Supplemental Decree are being used, if any, to offset depletions in excess of the
22 depletions limits described in subparagraphs 5(a) and 5(b) pursuant to water replacement plans

1 described in subparagraphs 12(d) or 12(e) of this Supplemental Decree.

2 **12. ADMINISTRATION.**

3 The authority of the Navajo Nation to administer the Nation's diversion, storage and use of
4 water under the rights adjudicated by this Supplemental Decree shall be as specified by paragraph 17
5 of the Decree. In addition to any otherwise applicable requirements, any change of place or purpose
6 of use or point of diversion of the uses described in paragraphs 3 and 4 of this Supplemental Decree
7 shall be subject to the following requirements:

8 (a) Any change of place of use or point of diversion of the stock uses described in
9 subparagraph 3.A.1 of this Supplemental Decree shall:

10 (1) be limited to within 1,000 feet of the original place of use or point of
11 diversion, respectively, as described in the US Survey;

12 (2) not relocate a storage dam or diversion to a point below the
13 confluence of the original water course with another water course;

14 (3) not be subject to the notice provisions of subparagraph 17(c)(1) of the
15 Decree;

16 (4) not be subject to paragraph 18 of the Decree;

17 (5) not be subject to paragraph 13 of this Supplemental Decree; and

18 (6) not be subject to the requirement that the Navajo Nation in its
19 administrative process described in paragraph 17(c) of the Decree consult with the
20 New Mexico State Engineer on proposed changes and potential impairment.

21 The Navajo Nation each year shall make a report to the State Engineer identifying changes of
22 place of use or points of diversion for stock uses. In addition, the purpose of use of stock

1 uses described in subparagraph 3.A.1 of this Supplemental Decree shall not be changed; and
2 any change in point of diversion or place of use shall not result in any increase in depletion
3 over and above the quantity of historic average annual depletion at the move-from location,
4 and shall be supplied from the same tributary water course or ground water source.

5 (b) Except as otherwise provided in subparagraph 3.B, any change of place or
6 purpose of use or point of diversion of the irrigation uses described in subparagraph 3.B of
7 this Supplemental Decree shall:

8 (1) comply with the provisions of paragraph 17(c) of the Decree;

9 (2) not result in any increase in depletion over and above the quantity of
10 historic average annual depletion at the move-from location; and

11 (3) be supplied from the same tributary water course or ground water
12 source.

13 (c) Any change of place or purpose of use or point of diversion of the uses
14 described in paragraph 4 of this Supplemental Decree shall comply with the provisions of
15 paragraph 17(e) of the Decree.

16 (d) If the average annual total combined at-site depletion in any of the drainages
17 identified in subparagraph 5(a) of this Supplemental Decree, excluding stock uses described in
18 subparagraphs 3.A.2 and 4.A.2 of this Supplemental Decree, exceeds in any period of ten
19 consecutive years the respective depletion limit for that drainage described by subparagraph
20 5(a), the Navajo Nation may offset any excess depletion for the drainage in accordance with a
21 replacement water plan approved by the New Mexico State Engineer. The replacement water
22 plan shall specify and schedule how the Navajo Nation will satisfy this offset requirement

1 annually by forbearing use of specific surface water rights in an amount equal to the amount
2 of excess at-site depletions. Such replacement plan shall only be required when the State
3 Engineer determines water is needed to meet the State of New Mexico's interstate compact
4 obligations or when the State Engineer determines a replacement plan is necessary to protect
5 existing water uses in New Mexico.

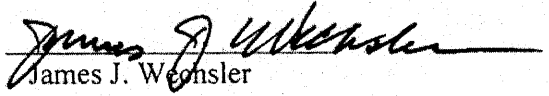
6 (e) If the average annual total combined depletion of San Juan River flow
7 exceeds in any period of ten consecutive years the depletion limit described by
8 subparagraph 5(b) of this Supplemental Decree, the Navajo Nation may offset any excess
9 river flow depletion impact at the locations of impact in accordance with a replacement
10 water plan approved by the New Mexico State Engineer. The replacement water plan
11 shall specify and schedule how the Navajo Nation will satisfy this offset requirement
12 annually by forbearing use of specific surface water rights in an amount necessary to
13 offset the excess river flow depletions. Such replacement plan shall only be required
14 when the State Engineer determines water is needed to meet the State of New Mexico's
15 interstate compact obligations or when the State Engineer determines a replacement plan
16 is necessary to protect existing water uses in New Mexico.

17
18 **13. NOTICE.**

19 In addition to any notice provisions under applicable law, at least 30 days prior to any change
20 in the place or purpose of use or point of diversion in the exercise of the water rights identified
21 herein, the Navajo Nation, acting through its Department of Water Resources, shall complete notice
22 of such change by publication in a newspaper of general circulation within the San Juan River Basin

1 in New Mexico once per week for three consecutive weeks and by letter to the New Mexico State
2 Engineer; except, that emergency replacement wells and emergency transfers for domestic and
3 sanitary purposes may be made with less than 30 days notice. Both such forms of notice shall
4 specify the proposed purpose and place of use, point of diversion, diversion rate, annual diversion
5 and depletion amounts, and source of water.

6 **IT IS SO ORDERED.**

7 
8 James J. Weensler
9 Presiding Judge