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Op-Ed: The San Juan Basin Settlement Is Good for New Mexico

by John D'Antonio, PE, New Mexico State Engineer

(ALBUQUERQUE, New Mexico) – There are many reasons to support the water rights settlement agreement between the state of New Mexico and the Navajo Nation. The settlement preserves existing agricultural uses, provides a secure supply of water for domestic and municipal uses, and protects the water supply available for cities along the Rio Grande served by the San Juan-Chama trans-mountain diversion project. The alternative to the settlement is years of expensive, divisive litigation regarding the Navajo Nation's water claims, with no clear outcome.

Concerns raised recently regarding the fairness of the settlement are unfounded. Both the state and the Navajo Nation are aware of the risks and uncertainty of litigation and have entered into the settlement because it represents a compromise that offers benefits to all New Mexicans.

One of the most important benefits is that it will provide the backbone of a water supply system to Navajo and non-Indian communities in Northwest New Mexico that desperately need it. Like other projects within the state designed to help solve water supply problems, the Navajo settlement project will provide a safe, reliable domestic water supply for thousands of New Mexicans who currently have to travel many miles each day to fill up tanks at water supply stations and haul them home again to use the water. The reality faced by many Navajo families today and the benefits of the settlement agreement were highlighted in a recent PBS documentary, *The Water Haulers*, and many New Mexicans were shocked to realize the primitive conditions some of their neighbors are faced with. The Navajo settlement goes a long way toward providing access to water for basic human needs that most citizens take for granted.

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Together with providing new water supplies for Navajo and non-Navajo communities, the agreement also provides additional benefits to existing water users. For example, under the settlement, the Navajo Nation has agreed to limit the total amount of water it will use for agricultural purposes and it has agreed to allow administration of most of its water rights by using an administration date of 1955 instead of 1868, thus ensuring more water will be available for other water users. In addition, the Navajo Nation agreed that it could not market water outside of New Mexico without complying with state law by going through the State Engineer's permitting process and getting approval from the Interstate Stream Commission.

Concerns about the effect of the Navajo settlement on uses of San Juan-Chama water in the Rio Grande system are also unfounded. In 1962, Congress authorized the San Juan-Chama Project and the Bureau of Reclamation constructed a series of tunnels under the mountains of the Continental Divide in northern New Mexico and southern Colorado to divert over 100,000 acre feet of water per year from the San Juan River Basin into the Rio Grande. Albuquerque, Santa Fe and other smaller communities have designed projects to utilize this water in their drinking water systems. In addition, the Middle Rio Grande Conservancy District uses approximately 20,000 acre-feet of the imported water each year to supplement its water supply. The Navajo settlement protects these water supplies because it quantifies with certainty the amount of water necessary to satisfy water needs on the San Juan side of the mountains. The Bureau of Reclamation has determined that sufficient water is available within the San Juan Basin to satisfy the requirements of the Navajo settlement water supply project without taking water from existing water uses within the San Juan Basin or reducing the amount of water received in the Rio Grande basin through the San Juan-Chama project.

Similar to the process that took place in 1962 for the San Juan-Chama project, the Navajo settlement project will also require federal legislation to authorize the federal government to construct the Navajo settlement pipeline. It is estimated that by 2040, the Navajo settlement pipeline will serve approximately 250,000 people in Northwest New Mexico, including residents of the City of Gallup.

Over the past few years, the Navajo Nation and the state have worked to modify and improve the settlement by adding protections for agricultural users and for New Mexico cities. Although some people may still oppose the settlement, the alternative is an outcome decided through litigation that would cost millions of dollars and would take decades to be decided, with no certainty of a better result for either side than what the settlement currently provides. Overall, the Navajo settlement is fair to both Navajo and non-Indian water users in the San Juan Basin in New Mexico because it removes the cloud of unsettled Navajo water rights and brings real promise of safe drinking water to Northwest New Mexico.

Copies of the Navajo settlement agreement and other Indian water rights settlements are available at the State Engineer's website: http://www.ose.state.nm.us/legal_ose_proposed_settlements.html

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The Office of the State Engineer is charged with administering the state's water resources. The State Engineer has power over the supervision, measurement, appropriation, and distribution of all surface and groundwater in New Mexico, including streams and rivers that cross state boundaries. The State Engineer is also Secretary of the Interstate Stream Commission and oversees its staff. The Interstate Stream Commission is charged with separate duties including protecting New Mexico's right to water under eight interstate stream compacts, ensuring the state complies with each of those compacts, as well as water planning.

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