

December 10, 2004, Revised Draft  
SAN JUAN RIVER BASIN IN NEW  
MEXICO NAVAJO NATION WATER  
RIGHTS SETTLEMENT:

Summary of Changes to the December 5,  
2003, and July 9, 2004, Drafts

Disclaimer: This summary is a  
product of NMISC staff. A settlement  
has not been approved.

HOGBACK AND FRUITLAND  
IRRIGATION PROJECTS

- Increased 1868 priority diversion and depletion amounts based on 1938 Hydrosurvey CIRs, diversion rates and diversion requirements
- Added farm delivery requirement consistent with Echo Ditch Decree and 1938 Hydrosurvey (change from July 9 Draft)
- Provided access to Navajo Reservoir storage through alternate water source provisions

## NAVAJO INDIAN IRRIGATION PROJECT

- Increased average depletion to 270,000 AF
  - Recognizes Biological Assessment amount
  - Mitigates impact of alternate water source provisions on the NIIP water supply and other risks
- Reuse authorized for tail water, waste water and water recaptured to prevent waterlogging
- Annual diversions and depletions not to exceed ten-year average amounts by more than 15%
- Removed NIIP funding from the settlement – funding to complete NIIP to be pursued separately under existing authorizations (change from July 9 Draft)

## NIIP TRANSFERS

- NIIP rights fungible
  - NIIP authority to change uses if total diversion demand <353,000 AF/YR
  - State Engineer application to divert more than 353,000 AF/YR if rights used for non-irrigation purposes
- NIIP contract supply protected if not needed to provide alternate water sourcing for Fruitland and Hogback

## NAVAJO-GALLUP WATER SUPPLY PROJECT

- Forbearance of Settlement Contract uses in New Mexico to allow delivery of water to Window Rock during shortage conditions
- NGWSP supply protected by alternate water source provisions
- Increased capital funding for the project to \$589 million (change from July 9 Draft is that the State of New Mexico to provide \$25 million cost-share in addition to previous contributions for Gallup regional system, which results in authorization for federal funding of \$564 million)

## ADDITIONAL ALLOCATIONS

- Added 50% share of additional Animas-La Plata Project allocations if available in future (other 50% for uses of member entities of the SJWC)
- Made certain the 50/50 sharing between Navajo and non-Navajo users of additional allocation if Upper Basin yield increased

## GROUND WATER RIGHTS

- Withdrawals greater than 2,000 AF/YR permitted, subject to:
  - State Engineer approving offset of San Juan River impacts >2,000 AF/YR - requires Navajo forbearance of surface water rights
  - Non-impairment
- Jurisdiction:
  - Navajo Nation on trust lands
  - State Engineer on fee lands
  - Cooperate on development of hydrologic models
- Existing NM-AZ interstate water systems - 400 AF for historic and future domestic and sanitary uses

## WATER ADMINISTRATION

- Alternate water source provisions:
  - Reduces priority calls on non-Navajo direct flow users
  - Provides effect of access to storage at no cost
  - Limited to 12,000 AF in any year (reduced from 15,000 AF in July 9 Draft but no longer conditioned on adjudication results)
- Forbear Navajo uses to protect Animas-La Plata Project allocations from compact calls (Articles III and IV of Upper Basin Compact)
- Top water bank – Navajo banking options
- Navajo jurisdiction on trust lands
- State Engineer watermaster on San Juan River

## OTHER PROVISIONS

- Commitment of \$10 million state funding for ditch improvements
- Navajo agreement to Echo Ditch rights and to permits/licenses, subject to abandonment, forfeiture or unauthorized use (language in July 9 Draft revised for clarity)
- Navajo Water Development Trust Fund contributions changed to 100% federal funding (deleted \$25 million New Mexico cost-share)