

**Draft Summary of Public Meeting on the Navajo Nation Water Rights Settlement
Farmington Civic Center, December 15, 2003, 6:00 - 8:30 pm**

Facilitator and recorder: Lucy Moore

Welcome and Introduction: John D'Antonio, State Engineer, welcomed participants and introduced members of staff, elected and officials and representatives of the Navajo Nation in attendance. He and John Whipple gave a power point presentation describing the main elements of the settlement. For help accessing the documents on the website, or other questions, please call the OSE at 505-827-6166, or 505-827-6160.

DISCUSSION: The participants asked questions and offered comments on the following points.

Appreciation of Negotiation Efforts: Many congratulated the State and the Nation representatives who have worked for years on this settlement. They appreciated the effort and the commitment behind the product.

Desire for Broader Inclusion: Representatives of municipalities and of irrigation interests expressed regret that they had not been able to participate in the negotiations as well. Some criticized the State and the Nation for maintaining a closed door policy until very recently. The State Engineer noted that the settlement deals only with Navajo Nation claims, and therefore it would have been inappropriate to include other parties in the negotiations. Some citizens asked that all future negotiations be made open to the public and the media. There were also questions about how comments made at this and other meetings, or submitted in writing to the Office of the State Engineer would be handled. The State Engineer explained that unlike a NEPA process, there is no requirement to answer each comment in writing. The negotiating parties will consider all the comments, and decide whether or not to modify the settlement documents. Both the State and the Nation are appreciative of the effort of citizens in the basin to help make this a better settlement.

High Price Tag: Some were concerned with the high price tag on implementation of the settlement.

Need for More Time to Consider the Documents: Several people remarked that the time period allotted for public comment (December 5 - January 15) was woefully inadequate given the importance of the issue and the length and complexity of the documents. Some feared that the schedule was reckless and might somehow subvert the adjudication process. Others spoke of the "train leaving the station," or a mistrust when the government says "we've got a deal for you."

The State Engineer acknowledged that the negotiating parties have put the documents on a fast track in order to take advantage of the key role that New Mexico representatives play in Congress at this time. He also pointed out that this is not the last chance for the public to comment, but merely a window of opportunity to review the draft document before it is delivered to Congress for consideration. During the Congressional debate and during the adjudication process, all participants will have time to comment and protest if necessary. By opening up the draft for public comment the State and the Nation hope to create a better document for presentation to Congress. Attorneys for the State and the Navajo Nation both spoke in support of this fast track, and asked the public to realize that although not perfect, the settlement is good – good for everyone in the basin.

Municipal Interests:

City of Aztec: Aztec and others asked for breakdowns and more detail on depletion schedules. Does the M&I figure, for example, include Aztec and the Echo Ditch Decree lots? The City of Aztec needs more information before they can support the schedule as presented. They also requested inclusion in the settlement, so that their claims could be submitted to the court at the same time as the Navajo. The amount of money requested should cover a global settlement.

Farmington: Farmington is concerned with the short time frame for reviewing the documents, and with the M&I depletion schedule, which does not seem to anticipate growth in the future. The city also needs analysis of the impact of the Navajo diversions on historic rights, and studies and an agreement on the capacity and schedule of delivery of Animas-LaPlata water through the Farmington Municipal Pipeline.

Agricultural Interests: Agricultural water users expressed concerns about depletions schedules, priority dates, conflicts with endangered species requirements, consideration of diversions not just consumption figures, actions taken in southern Colorado which could impact deliveries to New Mexico, storage of water for the Navajo-Gallup project and for Shiprock ditches, and the short time frame for review of the documents.

Acequia on Upper San Juan: A representative of this acequia needed clarity on the impact of the settlement on his and other acequias. The State Engineer replied that current users would be protected, and that in times of shortages, in agreements could not be reached, water use would be curtailed by priority date.

Hammon Conservancy District: The district is concerned that the Settlement ignores the rights of Permit 2848.

San Juan Water Users Association: This group represents 36 ditches and wanted to emphasize the importance of agriculture in the basin. They are pleased with the willingness of the Navajo Nation to settle their claims out of court in a non-adversarial way, but are unable to say whether or not they support the proposed settlement because they have not had enough time to review it. They asked for a chance to sit down with the State Engineer and negotiate their needs. They mentioned particular concern with the Echo Ditch Decree and the 1938 hydrographic survey, and with depletion schedules.

Bloomfield Irrigation District: This district also requested a negotiation session with the State Engineer. Their concerns include the cfs numbers mandated for endangered species and that impact on irrigators. They also want to know the intended dates for subordination of water rights, and asked that the negotiators look carefully at the priority dates on each ditch.

Navajo Interests: There were concerns about the use and protection of groundwater tributaries under Navajo allotments. Some groundwater sources may be contaminated from oil and gas development, and be unfit for livestock. An attorney for the State pointed out that allottees may have claims to historic and existing uses. If the adjudication court awarded these claims, they would be deducted from the Navajo Nation portion awarded in the settlement.

A member of the Navajo Nation urged the group to look out for the needs of future generations. The welfare of the Navajo Nation depends on the success of NIIP or the ability to use that water in other ways. He suggested that there be no repayment of construction costs if the water is used on Navajo lands by Navajo members. Another asked why the storage rights behind the dam would be converted from senior to junior in certain circumstances in the settlement. He also asked about unexpected costs of the settlement to the Navajo Nation.

Representative Ray Begay spoke in favor of settling Navajo water rights out of court. The longer we wait, he said, the less water there will be to go around.