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Navajo Settlement*

CITY OF FARMINGTON

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FACSIMILE TRANSMITTAL SHEET

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DATE: FEBRUARY 3, 2005

DELIVER TO: JOHN WHIPPLE

INTERSTATE STREAM COMMISSION

FROM: JAY B. BURNHAM, CITY ATTORNEY

TOTAL NUMBER OF PAGES INCLUDING COVER SHEET 5

COMMENTS:

SEE ATTACHED. HARD COPY WILL NOT FOLLOW.

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February 2, 2005

D L Sanders, Chief Counsel
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102

Re: Paragraph 8-Proposed Agreement Among the State of New Mexico, the Navajo Nation and the City of Farmington Regarding the Navajo Water Rights Settlement

Dear D L:

The purpose of this letter is to memorialize the discussions your office and I have had in regard to the meaning of the "actively support" language in paragraph 8 of the above-referenced agreement.

It is my understanding that if the City Council should approve the above-referenced agreement, the City's active support of the Navajo Water Rights Settlement (Settlement) would include the following:

- 1) adoption of a resolution stating that the City officially supports the Settlement substantially in the form of the attached draft resolution;
- 2) distribution of copies of the resolution to New Mexico's Congressional delegation;
- 3) upon the presentation of the Partial Final Decree to the court for approval in the San Juan River adjudication, the filing of a pleading by the City's counsel of record indicating that the City supports the entry of the Partial Final Decree;
- 4) confirm the City's support of the Settlement in any local meetings, including those with federal or state legislators or their aides concerning the Settlement.

It is also my understanding that City officials will not be required to travel to Washington, D.C. to provide testimony at congressional hearings on authorizing legislation, and that the City is not committing itself to expend City funds to lobby or promote the Settlement except as outlined above.

CITY ATTORNEY

If this is not your understanding of the City's obligations under paragraph 8 of the agreement, please let me know as soon as possible.

Thanks for your help and cooperation throughout this process.

Sincerely,



Jay B. Burnham
City Attorney

xc: Mayor and Council
Bob Hudson, City Manager
Gina Morris, City Clerk
Paul Martin, City Engineer
Paul Montoia, Water Resources
John Utton, Sheehan, Sheehan and Stelzner
John Whipple, Interstate Stream Commission

DRAFT**RESOLUTION NO. 2005-****A RESOLUTION ENDORSING AND SUPPORTING THE PROPOSED
NAVAJO WATER RIGHTS SETTLEMENT**

WHEREAS, representatives of the Navajo Nation and State of New Mexico have conducted extensive negotiations that have resulted in a proposed settlement of the Navajo Nation's claims to water rights in the San Juan River Basin in New Mexico, and

WHEREAS, the State and Navajo Nation have accepted comments from various interested parties, including the City of Farmington, regarding the proposed settlement documents and made revisions to the draft documents in an effort to address as many of the concerns of those interested parties as possible, and

WHEREAS, many of the revisions to the proposed settlement documents have resulted in additional protections to non-Indian water users within the basin, including the City of Farmington, and

WHEREAS, the proposed settlement has been approved by the Navajo Nation Council on December 28, 2004 and the New Mexico Interstate Stream Commission on January 12, 2005, and will soon be considered for approval by the Attorney General and Governor of the State of New Mexico, and

WHEREAS, if approved by the Attorney General and the Governor, the proposed settlement will need to be approved, authorized and funded by the United States Senate and House of Representatives, and

WHEREAS, City of Farmington representatives have entered into discussions with representatives of the State and the Navajo Nation regarding the City's water rights and how the City would be affected by the proposed Navajo water rights settlement, and

WHEREAS, as a result of the those discussions, the City, the State and the Navajo Nation have reached an agreement concerning several of the City's major water rights and how they would be presented to the water rights adjudication court and administered by the State, and

WHEREAS, members of the City staff have conducted an analysis of the City's water rights and determined that with the agreement in place regarding the City's major water rights, the City has sufficient rights to satisfy its needs for the future pursuant to the City's Forty Year Water Plan, and

WHEREAS, the proposed settlement, if approved and implemented, will result in the removal of the uncertainties associated with having the large claims of the Navajo Nation unresolved and will allow all parties, including the City, to move forward with water rights and water use planning with confidence and certainty, and

WHEREAS, with these assurances in place, the City Council has determined that it is in the best interest of the City of Farmington and its citizens and water utility customers to support the proposed Navajo Water Rights Settlement, and

WHEREAS, the agreement between the City, the State and the Navajo Nation concerning the City's major water rights is contingent on the City Council adopting a resolution indicating the City's support for the Navajo Water Rights Settlement.

NOW, THEREFORE, BE IT RESOLVED by the City of Farmington that the City endorses and supports the proposed settlement between the State of New Mexico and the Navajo Nation concerning the Navajo Nation's claims to water rights in the San Juan River Basin in New Mexico as set forth in documents issued by the Office of the State Engineer and the Interstate Stream Commission on December 10, 2004, and

BE IT FURTHER RESOLVED that City staff is directed to distribute copies of this resolution to the appropriate officials with the State and the Navajo Nation, and to all members of New Mexico's Congressional delegation.

PASSED, APPROVED, SIGNED AND ADOPTED this ____ day of February, 2005.

William E. Standley, Mayor

(SEAL)

ATTEST:

Gina R. Morris, City Clerk

DRAFT