

WATER AND NATURAL RESOURCES COMMITTEE

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San Juan College, Farmington

NAVAJO NATION WATER CONCERNS

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September 1996. Integrated Water Resources Management in the San Juan Basin. A conference was held in Farmington concerning San Juan River issues. At that time various issues were identified that needed to be addressed in order to achieve a comprehensive resolution of the Navajo water rights in the San Juan River Basin. (See attached paper.) Substantial progress has been achieved on those issues:

- **Navajo Water Rights Claim.** The State of New Mexico and the Navajo Nation have been engaged in settlement discussions. Significant progress has been made as evinced by a new Memorandum of Agreement signed on October 31, 2001. The Department of the Interior concurs that significant progress has been made toward a settlement, and on June 20, 2002, the Department agreed to appoint a Federal Negotiation Team to participate in these settlement negotiations.
- **NIIP and the Alleged Waiver of Navajo Water Rights.** A settlement could not be conceived if the Navajo Nation demanded "every drop of water" from the San Juan River. Conversely, settlement is not possible if the State asserted the position that the Navajo claims were resolved by the authorization of the Navajo Indian Irrigation Project (NIIP). For purposes of constructive settlement negotiation, both sides have abandoned their rhetoric and the parties are close to an agreement concerning the Navajo Nation's San Juan River water budget. That water budget includes water for the full development of NIIP, the Navajo-Gallup Water Supply Project, Navajo "mainstem" irrigation projects, historic irrigation, and additional M&I water supplies.
- **San Juan General Stream Adjudication.** This adjudication has been hindered by the lack of resources to conduct the hydrographic survey that is necessary in order for the adjudication of the Navajo claim to move forward.
- **Endangered Fish.** In 1996, the Endangered Species Act cast a cloud on water development in the San Juan Basin. Although the significance of the ESA has not diminished, the parties all recognize the need to aggressively pursue the recovery of endangered species so that the water needs in the San Juan Basin can be satisfied. Today, the status of the endangered fish has improved through the San Juan River Recovery Implementation Program, a collaborative effort of federal, state, and tribal governments and water development interests in the San Juan River Basin.

- **Full Development of NIIP.** In 1999, the U.S. Fish & Wildlife Service opined that NIIP could be fully built, with full depletions of 270,000 acre-feet per year without jeopardy to endangered fish species.
- **Navajo Dam Contracts.** In 1996, the Navajo Nation challenged the renewal of the Navajo Dam contract for the San Juan Generating Station (SJGS), operated by the Public Service Company of New Mexico (PNM). A new water supply for SJGS was negotiated whereby the Jicarilla Apache Tribe would lease part of its water entitlement to PNM. This arrangement achieves numerous objectives: (1) SJGS is assured of a reliable water supply; (2) Jicarilla water supplies as recognized in the Partial Final Settlement Decree dated February 22, 1999, can be put to use, and (3) 16,200 acre-feet per year of Navajo Dam water is now available for the Navajo-Gallup Water Supply Project.
- **Animas-La Plata Project.** In 1996, the Navajo Nation did not support of ALP. Subsequently, the Navajo Nation became a participant in the project. With the full support of the Navajo Nation, ALP was authorized in 2000, including the authorization of the Farmington-to-Shiprock waterline to convey 4,680 acre-feet per year of municipal water to Shiprock and to other Navajo communities in the San Juan River Basin.

August 2002. Current Navajo Issues. The stage is set, and the opportunity exists, for the permanent resolution of the Navajo water rights claim in the San Juan River Basin in New Mexico. This will require a significant commitment of resources by the State of New Mexico and the Navajo Nation.

- **Framework for Navajo Settlement.** The Memorandum of Agreement recognizes that a settlement should:
 - Acknowledge an entitlement of Navajo Claims;
 - Provide for the development of "wet water" on Navajo Nation lands, including the development of domestic water supplies for municipal and industrial purposes;
 - Provide a long term revenue stream for Navajo Nation for water infrastructure projects within San Juan Basin including the completion of the Navajo Indian Irrigation Project and the rehabilitation of the existing Shiprock irrigation systems;
 - Recognize the political reality that there is non-Indian dependence on water in San Juan Basin and that a settlement will require non-Indian support; and
 - Provide stability for Indians and non-Indians within San Juan Basin.
- **"Wet Water" Development.** Completion of NIIP and construction of the Navajo-Gallup Water Supply Project. The Navajo-Gallup Project will require a substantial monetary contribution from the State of New Mexico.
- **State of New Mexico - What Can be Done to Help?**
 - Funding for Hydrographic Survey.
 - Funding for Settlement Facilitator.
 - State Contribution to Navajo Settlement.
 - Funding for Navajo-Gallup.
 - Support for Navajo Settlement.