

**STATE OF NEW MEXICO
SAN JUAN COUNTY
THE ELEVENTH JUDICIAL DISTRICT COURT**

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

2009 DEC 15 AM 11 19

STATE OF NEW MEXICO, *ex rel.* STATE ENGINEER,

Plaintiff,

CV-75-184

vs.

**JAMES J. WECHSLER
Presiding Judge**

THE UNITED STATES OF AMERICA, *et al.*,

**SAN JUAN RIVER
GENERAL STREAM
ADJUDICATION**

Defendants,

THE JICARILLA APACHE TRIBE AND THE
NAVAJO NATION,

**Before Special Master
Stephen E. Snyder**

Defendant-Intervenors.

**NOTICE OF SETTLING PARTIES' REVISIONS TO PREVIOUSLY SUBMITTED
EXHIBITS**

Stanley M. Pollack
Bidtah N. Becker
M. Kathryn Hoover
Navajo Nation Department of Justice
Post Office Drawer 2010
Window Rock, Navajo Nation (AZ) 86515
(928) 871-7510

Attorneys for the Navajo Nation

Guss Guarino
U.S. Department of Justice
Environment and Natural
Resources Division
1961 Stout Street, 8th Floor
Denver, CO 80294
(303) 844-1343

Attorney for the United States

Arianne Singer
Tracy L. Hofmann
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150

John W. Utton
Special Assistant Attorney General
Sheehan Sheehan & Stelzner, P.A.
Post Office Box 271
Albuquerque, New Mexico 87103
(505) 247-0411

Attorneys for the State of New Mexico

**NOTICE OF SETTLING PARTIES' REVISIONS TO PRVIOUSLY SUBMITTED
EXHIBITS**

In support of the United States', Navajo Nation's, and State of New Mexico's ("Settling Parties") Joint Motion for Order Governing Initial Procedures for Entry of a Partial Final Judgment and Decree of the Water Rights of the Navajo Nation (September 2, 2009) ("Joint Motion"), the Settling Parties had attached a proposed order (Exhibit A) and proposed notice (Exhibit B). On November 17, 2009, the Special Master held a hearing on the Joint Motion and objections received to that Joint Motion. During that hearing, the Special Master raised several questions concerning the Joint Motion. At the conclusion of that hearing, the Settling Parties agreed to revise the proposed order and notice based on the questions and concerns raised and further agreed to confer with objectors over revisions to the proposed order and notice. On November 20, 2009, this Court issued an order instructing the Settling Parties to both confer with objecting parties over the Settling Parties' proposed revisions and to submit those revisions to the Special Master by December 15, 2009.

In response to questions and issues raised at the November 17, 2009 hearing and pursuant to the Special Master's Orders of November 20, 2009, the Settling Parties submitted their proposed revisions to the Joint Motion Exhibits to the objecting parties on December 4, 2009. On December 9, 2009, the Settling Parties conferred with the objecting parties by telephone conference. After conferring with the objecting parties, the Settling Parties have further revised the proposed order and notice¹. Attached to this Notice are the following revised documents:

¹ The Settling Parties can make no representation with respect to whether any change to the proposed revised order and notice satisfy any objection; however, to the extent that the Settling Parties could incorporate suggestions by the objecting parties, the Settling Parties made the change that they believe appropriate and that addressed a concern raised.

- 1) Exhibit D - [PROPOSED] ORDER GOVERNING INITIAL PROCEDURES FOR ENTRY OF A PARTIAL FINAL JUDGMENT AND DECREE OF THE WATER RIGHTS OF THE NAVAJO NATION [REVISED 12/15/2009]
- 2) Exhibit E – NOTICE OF EXPEDITED *INTER SE* PROCEEDING TO ADJUDICATE THE WATER RIGHTS OF THE NAVAJO NATION [REVISED 12/15/2009]

In addition, in the course of revising the proposed order and notice since November 17th, the Settling Parties have developed additional information that is relevant to many of the questions that the Special Master raised at the November 17th hearing. First, in addition to the brief summary now included in the proposed notice (Exhibit E), the Settling Parties have prepared a more detailed summary of the Navajo water uses associated with the mainstem San Juan River (Exhibit F). Second, based on preliminary information available, the United States has prepared two small maps (Exhibit G and H) the single demonstrative purpose of which is to provide the viewer an understanding of the approximate locations of tributary uses described in the proposed revised notice and subject to the proposed supplemental *inter se* proceeding. Exhibit G provides the approximate location of stock ponds and reservoirs believed to be located on Navajo lands in the San Juan River Basin. Exhibit H provides the approximate location of acreage on Navajo lands in the San Juan Basin that has been identified as having been subject to tributary irrigation.² Although the information contained in Exhibits F, G, and H is believed to be too detailed to be included in the proposed notice (Exhibit E), this information gives the Special Master and the objecting parties a more complete understanding of the nature of the tributary uses and rights associated with the supplemental proceedings.³

² Exhibits G and H are preliminary drafts and will be prepared in final form before the filing of the anticipated Motion for Entry of Navajo Decree. It is anticipated that final versions of these maps will be made generally available to any participant or objector in the *inter se* process.

³ The information included in Exhibit F was not available for preliminary distribution by the Settling Parties before filing of this Notice but was generally, verbally described to objecting parties on the December 9th telephone conference. The information contained in Exhibits G and H was prepared and distributed to the objecting parties in advance of the December 9th telephone conference.

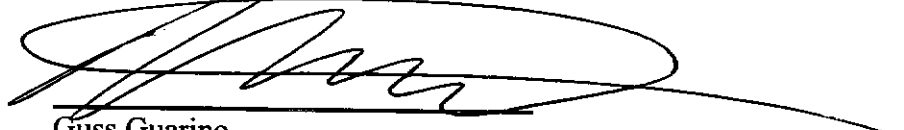
Respectfully submitted this 15th day of December 2009.

NAVAJO NATION

Approved December 14, 2009

Stanley M. Pollack
Bidtah N. Becker
M. Kathryn Hoover
Navajo Nation Department of Justice
Post Office Drawer 2010
Window Rock, Navajo Nation (AZ) 86515
(928) 871-7510

UNITED STATES OF AMERICA



Guss Guarino
U.S. Department of Justice
Environment and Natural Resources Division
1961 Stout Street, 8th Floor
Denver, CO 80294
(303) 844-1343

STATE OF NEW MEXICO

Approved December 14, 2009

Arianne Singer
Tracy L. Hofmann
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150

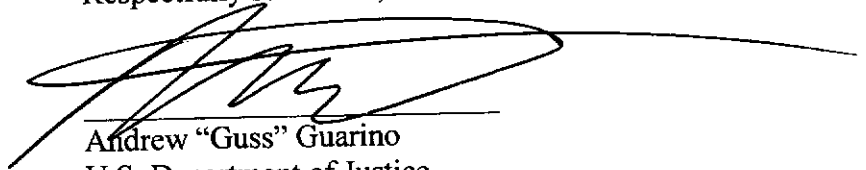
Approved December 14, 2009

John W. Utton
Special Assistant Attorney General
Sheehan Sheehan & Stelzner, P.A
Post Office Box 271
Albuquerque, New Mexico 87103
(505) 247-0411

CERTIFICATE OF SERVICE

I hereby certify that, on December 15, 2009, a true and accurate copy of NOTICE OF SETTLING PARTIES' REVISIONS TO PRVIOUSLY SUBMITTED EXHIBITS, along with a copy of this Certificate of Service, were mailed by U.S. mail, postage prepaid to the parties listed on the Court website lists entitled Attorney Mailing List and Pro Se Mailing List. I further certify that that NOTICE OF SETTLING PARTIES' REVISIONS TO PRVIOUSLY SUBMITTED EXHIBITS, along with a copy of this Certificate of Service, were sent via email (but not sent via regular mail) to wrattorney@11thjdc.com, wrsubpro@11thjdc.com, and wrlaplata@11thjdc.com, to the parties and counsel of record listed on the Court website lists entitled Attorney Electronic Service List, Section Wide Issue Subproceeding Electronic Service List, and La Plata Distribution List Electronic Service List.

Respectfully submitted,



Andrew "Guss" Guarino
U.S. Department of Justice
1961 Stout St., 8th Floor
Denver, CO 80294
(303) 844-1343

Counsel for the United States

Exhibit A

**STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO, <i>ex rel.</i>)	CV-75-184
STATE ENGINEER,)	<u>JAMES J.</u>
)	<u>WECHSLERROZIER E.</u>
Plaintiff,)	<u>SANCHEZ</u>
)	Presiding District Judge, <i>pro</i>
v.)	<i>tempore</i>
)	
THE UNITED STATES OF AMERICA)	SAN JUAN RIVER BASIN
<i>et al.</i> ,)	ADJUDICATION
)	
Defendants.)	

**[PROPOSED] ORDER GOVERNING INITIAL PROCEDURES
FOR ENTRY OF A PARTIAL FINAL JUDGMENT AND DECREE
OF THE WATER RIGHTS OF THE NAVAJO NATION [REVISED 12-14-2009]**

THIS MATTER comes before the Court on the Joint Motion for an Order Governing Initial Procedures for Entry of Partial Final Judgment and Decree of the Water Rights of Navajo Nation ("Joint Motion") filed by the Navajo Nation ("Navajo Nation"), the United States of America ("United States") and the State of New Mexico *ex rel.* State Engineer ("State").

This Order approves commencement of an expedited *inter se* proceeding ("Navajo Decree Proceeding") pursuant to Provisional Rule 1-071.2(B) NMRA 2009 that will result in a final order and judgment approving and entering the Partial Final Judgment and Decree of the Navajo Nation Water Rights within the San Juan River Basin in New Mexico ("Navajo Decree") that will be binding on all persons and entities claiming water rights or claiming the use of water

in the San Juan River System and the San Juan River Underground Water Basin within the State of New Mexico ("San Juan River Basin"). In particular, this Order (1) designates the Navajo Decree Proceeding as an expedited *inter se* proceeding pursuant to Provisional Rule 1-071.2(B) NMRA 2009; (2) establishes initial procedures for the Navajo Nation, the United States and the State ("Settling Parties") to file a Motion for Entry of a Partial Final Judgment and Decree ("Motion for Entry of the Navajo Decree") setting forth the Navajo Nation's water rights in accordance with the "San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement" ("the Settlement Agreement"); (3) approves a form of Notice of Expedited *Inter Se* Proceeding to Adjudicate the Water Rights of the Navajo Nation ("Notice") and approves notice procedures for notifying persons and entities claiming water rights in the San Juan River Basin of the terms of the proposed Navajo Decree and procedures for filing objections thereto; (4) sets a deadline for filing objections; (5) sets a Mandatory Pre-Hearing Scheduling Conference for the Settling Parties and all objectors to participate in the Navajo Decree Proceeding; ~~(6) confirms the standard of review and burden of proof to be applied in the Navajo Decree Proceeding;~~ and (7) will aid in resolution of claims and management of this case.

This Order is also entered by the Court pursuant to Rule 1-016(B) NMRA 2009 to further guide the course of the adjudication of the water rights claimed in this adjudication by the Navajo Nation and by the United States, acting as Trustee for the benefit of the Nation.

Being fully advised in the premises, the Court FINDS:

1. Designation of an expedited *inter se* proceeding will promote judicial efficiency and expeditious completion of the adjudication by facilitating settlement and final resolution of the Navajo Nation's claims to water rights within the San Juan River Basin. Failure to proceed

will injure the Navajo Nation by causing the statutory condition to fail, jeopardizing approval of the settlement and delaying final determination of the Navajo Nation water rights. Designation of an expedited *inter se* proceeding will not injure any other parties.

2. The proposed initial schedule for the Navajo Decree Proceeding, consisting of initial filings by the Settling Parties, convening of public meetings and setting a deadline for filing objections provide a full and fair opportunity for all water right owners within the San Juan River Basin to review the necessary documents, to understand the proceeding and proposed settlement terms and to be heard on any objection prior to consideration of the proposed Navajo Decree.

3. The form of proposed Notice fairly and reasonably informs defendants and other potential water right claimants in the San Juan River Basin of the proposed Navajo Decree and of their rights to file an objection and to be heard on any objection and to participate in the Navajo Decree Proceeding. The Notice also clearly explains that if a claimant does not file an objection that the claimant will be bound by the Navajo Decree Proceeding regardless of the outcome and will be bound by the terms of any Partial Final Judgment and Decree entered by the Court even if those terms vary from the terms of the proposed Navajo Decree. The Notice's reduced margins, single-spaced lines and double-sided text promote efficient use of limited resources without diminishing the purpose and effect of the Notice.

4. Compliance with the proposed procedures for giving notice will constitute reasonable diligence by the Settling Parties in ascertaining the names and mailing addresses of and notifying all known potential water right claimants and in providing notice to all unknown claimants and that said procedures are reasonably calculated to allow full opportunity for participation of all defendants and potential water rights claimants in the Navajo Decree

Proceeding in compliance with Provisional Rule 1-071.2(C) and in satisfaction of applicable due process requirements.

~~5. The Navajo settlement was reached by the State of New Mexico, the Navajo Nation and the United States after years of intensive and active negotiations, conducted in good faith and at arms length.~~

5. The State filed a complaint commencing the adjudication of all claims to water within the San Juan River Basin on March 13, 1975. The U.S. filed an Answer that asserted Affirmative Claims on behalf of the Navajo Nation. (Supplemental Answer, served by United States on January 8, 1976). The Affirmative Claims prepared by the United States contain a short and plain statement of all water rights claimed by the United States on behalf of the Navajo Nation and its members within the San Juan River Basin. The Navajo Nation thereafter filed its motion to intervene and to file its answer to the complaint. (Motion to Intervene, an Answer, and a Motion to Dismiss, filed June 20, 1977). The Court granted leave to the Navajo Nation to intervene as a party defendant and accepted the Navajo Nation's answer as a responsive pleading. (Order, entered December 14, 1977). However, in order for the Court and other claimants to understand and evaluate the proposed settlement of the Navajo Nation's claims, it is necessary for the Settling Parties to provide sufficient information necessary for determination of the proposed rights, in satisfaction of state adjudication statutes. NMSA §§ 72-4-13 through 72-4-17 (1978).

The Court concludes that the Joint Motion is well taken and should be granted.

IT IS THEREFORE ORDERED:

A. Designation of Expedited Inter Se Proceeding.

The Navajo Decree Proceeding is designated and shall be conducted as an expedited *inter se* proceeding pursuant to Provisional Rule 1-071.2(B) NMRA 2009. Pursuant to Rule 1-071.2(D), the Navajo Decree Proceeding will result in a partial final judgment and decree adjudicating the water rights of the Navajo Nation in the San Juan River Basin that binds all water rights claimants who are given notice under Rule 1-071.2(C) regardless of whether they were served and joined as defendants, participated in, or received actual notice of the proceeding.

B. Filing of Motion for Entry of Partial Final Decree

Within 90 days of execution of the revised Settlement Agreement by the State, the United States and the Navajo Nation, the Settling Parties shall file with the Court the Motion for Entry of the Navajo Decree. At the time of filing of the Motion for Entry of the Navajo Decree, the Settling Parties shall provide an electronic copy of the motion, along with the proposed Navajo Decree and executed Settlement Agreement, in Portable Document Format ("PDF"), to the Clerk of Court for posting on the Court's website. No response or objection to the Motion for Entry of the Navajo Decree will be required until the deadline for filing objections to the entry of the proposed Navajo Decree, as set forth in the Notice approved below.

C. Hydrographic Survey Information

Contemporaneously with the filing of the Motion for Entry of the Navajo Decree, the Settling Parties shall compile and make available existing information sufficient to describe and determine the elements of the rights proposed to be adjudicated by the proposed Navajo Decree. Such information shall include: (1) existing records, reports, surveys and maps of the Navajo Indian Irrigation Project, the Hogback-Cudei Irrigation Project and the Fruitland-Cambridge Irrigation Project; (2) existing planning documents, permits and authorizations, including federal

legislation, environmental impact statements and records of decision, for the Animas-La Plata Project and the Navajo Gallup Water Supply Project; and (3) existing records of use, plans, permits and authorizations for Navajo municipal and industrial uses. Copies of the information shall be organized, indexed and made available for inspection at the document repositories identified in the Notice.

C.D. Form of Notice and Notice Procedures

The Court approves the form of Notice attached as Exhibit B to the Joint Motion and approves the notice procedures proposed by the Settling Parties. For purposes of the Navajo Decree Proceedings, the "Commencement Date" is that date upon which all of the following events have occurred: first, the Court approves the notice procedures; second, the Court approves the form of the Notice; third, the revised Settlement Agreement has been executed by the Settling Parties; and finally, the Settling Parties file the Motion for Entry of the Navajo Decree. Upon occurrence of the Commencement Date, the Settling Parties shall give notice by completing the following:

1. Notice by Regular First Class Mail. Not later than 90 days after the Commencement Date, the Settling Parties shall send the Notice by first class mail to all persons and entities claiming ownership of water rights within the San Juan River Basin identified from the following sources:
 - (a) Existing hydrographic survey and court records for the adjudication;
 - (b) the respective public records of the San Juan, McKinley, Rio Arriba and Sandoval County Assessors;
 - (c) the public records of the State Engineer; and

(d) the respective public records of irrigation districts, acequias, water conservancy districts and other water associations or commissions.

2. Notice by Publication. Not later than 60 days after the Commencement Date, the Settling Parties shall publish the approved Notice pursuant to NMSA 1978, Sec. 14-11-10 (2008) in Spanish and English, once a week for four (4) consecutive weeks in the *Navajo Times*, the *Gallup Independent*, the *Farmington Daily Times*, the *Rio Rancho Observer*, the *Rio Grande Sun*, and the *Albuquerque Journal*. Publication shall serve as notification to those water rights claimants who were not known to the Settling Parties and claimants whose addresses could not be determined after exercise of reasonable diligence as described in paragraph C.1, above. Publication shall also notify claimants of the times and locations of the public meeting described in paragraph C.3, below. In conjunction with the certification required by paragraph C.4, the Settling Parties shall file with the Court affidavits of publication from the publishers, managers or agents of the aforementioned newspapers.

3. Public Meetings. Not later than 120 days after the Commencement Date, the Settling Parties shall hold one public meeting within each of the following locations, for a total of five public meetings: (1) the city of Farmington; (2) the Shiprock Chapter of the Navajo Nation; (3) the town of Aztec; (4) the town of Bloomfield; and, (5) the Crownpoint Chapter of the Navajo Nation. In addition to the notice of the public meetings to be provided pursuant to paragraph C.2, above, the Settling Parties shall further publicize the public meetings by purchasing a quarter-page advertisement or larger once a week for three consecutive weeks in the *Gallup*

Independent, the *Farmington Daily Times*, and the *Navajo Times*. The first advertisement shall occur no later than two weeks before the first public meeting. The advertisements shall describe the purpose of the public meetings and shall set forth the times, dates and locations of the five meetings. Furthermore, the Settling Parties shall publicize the public meetings by purchasing 30-second radio advertisements at least three times a day on the day before and the day of each public meeting to be run on at least two radio stations broadcasting in the area of the public meeting.

4. Certification of Notice. Upon completion of the notice requirements described in paragraphs C.1, C.2 and C.3, the Settling Parties shall file with the Court a certification describing the fulfillment of the provisions required by those paragraphs.

D.E. Deadline for Filing Objections and Form of Objections

All objections to entry of the proposed Navajo Decree shall be filed with the Court not later than 150 days of the Commencement Date. The filing of an objection will satisfy the requirement of Provisional Rule 1-071.2(C)(3) of the filing of a notice of intent to participate and no other pleading shall be required to be filed by the deadline in order for a claimant to participate in the proceeding as an objector. Objections must include the following: (1) name and address of the objector; (2) description of water rights claimed by the objector; (3) statement of the specific legal and factual basis of the objection; and (4) how the objector will be injured or harmed by the Settlement Agreement or entry of the Navajo Decree in a legally cognizable way. Failure to file a timely objection and notice including the information described above will preclude that water rights claimant's subsequent participation in the Navajo Decree Proceeding;

nonetheless, the water rights claimant will be bound by said proceedings whether the claimant was served and joined as a defendant, participated in, or received actual notice of the proceeding. Notwithstanding the above, failure by a claimant to object to or participate in the Navajo Decree Proceeding will not bar the claimant from objecting to or participating in a later proceeding to consider additional Navajo Nation water rights not described in the Navajo Decree that are the subject of a supplemental decree. A separate schedule and additional procedures for participating in such a supplemental decree proceeding will be established by the Court at a future time.

E.F. Mandatory Pre-Hearing Scheduling Conference

The Court will hold a Mandatory Pre-Hearing Scheduling Conference within 180 days of the Commencement Date to set a schedule to hear objections to entry by the Court of the proposed Navajo Decree and to govern the Navajo Decree Proceeding. Prior to the scheduling conference, the Settling Parties shall submit to the Court a proposed scheduling order to hear objections that are timely filed. Any party that has filed a timely objection will be required to appear in person or through legal counsel at the scheduling conference. Failure to appear at the scheduling conference, will result in dismissal of the objection and will preclude that water rights claimant's subsequent participation in the Navajo Decree Proceeding; nonetheless, all water rights claimant will be bound by said proceedings whether the claimant was served and joined as a defendant, participated in, or received actual notice of the proceeding. Notwithstanding the above, failure by a claimant to object to or participate in the Navajo Decree Proceeding will not bar the claimant from objecting to or participating in a later proceeding to consider additional Navajo Nation water rights not described in the Navajo Decree that are the subject of a

supplemental decree. A separate schedule and additional procedures for participating in such a supplemental decree proceeding will be established by the Court at a future time.

~~F. Standard of Review and Burden of Proof~~

~~———— The burden shall be on the objecting party to demonstrate that the rights proposed to be settled pursuant to the proposed Navajo Decree should not be quantified and administered as proposed therein. Objectors shall be required to demonstrate that entry of the proposed Navajo Decree is not fair, adequate, or reasonable; is not in the public interest; or is not consistent with applicable law.~~

G. Hydrographic Survey Report

The outstanding remainder of this Court's August 20, 2004 Order shall be vacated.

SO ORDERED, this ____ day of _____ 20109.

J. WECHSLER

TEMPORE

ROZIER E. SANCHEZJAMES

DISTRICT PRESIDING JUDGE PRO

**STATE OF NEW MEXICO
COUNTY OF SAN JUAN
ELEVENTH JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO, *ex rel.*)
STATE ENGINEER,)
))
Plaintiff,)
))
v.)
))
THE UNITED STATES OF AMERICA)
et al.,)
))
Defendants.)
_____)

CV-75-184
JAMES J. WECHSLER
Presiding Judge
SAN JUAN RIVER BASIN
ADJUDICATION

NOTICE OF EXPEDITED *INTER SE* PROCEEDING
TO ADJUDICATE THE WATER RIGHTS OF THE NAVAJO NATION [REVISED 12-14-2009]

To: ALL PERSONS AND ENTITIES CLAIMING WATER RIGHTS IN THE SAN JUAN RIVER SYSTEM AND THE SAN JUAN RIVER UNDERGROUND WATER BASIN WITHIN THE STATE OF NEW MEXICO, INCLUDING PERSONS PREVIOUSLY JOINED AS DEFENDANTS IN THE ABOVE-CAPTIONED ACTION, AND ALL UNKNOWN CLAIMANTS OF INTEREST

YOU ARE HEREBY NOTIFIED of the deadline established by the Eleventh Judicial District Court for the State of New Mexico for filing objections to a proposed Partial Final Judgment and Decree of the Water Rights of the Navajo Nation ("Navajo Decree") that would adjudicate the water rights of the Navajo Nation in the San Juan River Basin. This notice describes the litigation concerning water rights in the San Juan River Basin and the proposed Navajo Decree, and states the deadline established by the Court for objecting to the proposed Navajo Decree.

PLEASE READ THIS NOTICE CAREFULLY. IT DESCRIBES THE ONLY OPPORTUNITY YOU WILL HAVE TO OBJECT TO THE PROPOSED NAVAJO DECREE.

By Order of the Eleventh Judicial District Court, a comprehensive proceeding, known as an expedited *inter se* proceeding (the "Navajo Decree Proceeding"), has been scheduled so that all water right claimants within the San Juan River Basin shall be given notice of, and an opportunity to object to, the Navajo Decree proposed by the Navajo Nation, the State of New Mexico on the relation of the State Engineer ("State"), and the United States of America ("United States") (collectively "the Settling Parties"). If you own water rights in the San Juan River Basin, you have the right to file an objection to the proposed Navajo Decree ("Objection"), but you must exercise that right in the manner, and within the deadline, established by the Court or you will be barred from further participation in this proceeding. The Court has established _____ as the deadline for filing an Objection. If

you do not file an Objection you will be bound by the results of the proceeding, regardless of the outcome, including being bound by the terms of the Navajo Decree entered by the Court, even if those terms vary from the terms of the proposed decree.

Summary of the Proceedings:

A lawsuit to determine all surface and underground water rights in the San Juan River Basin commenced in 1975 when the State of New Mexico filed a Complaint against the United States of America, on its own behalf and on behalf of the Jicarilla Apache Tribe, the Navajo Nation, and the Ute Mountain Ute Tribe, and against other water rights claimants. In response, the United States filed a Supplemental Answer making water rights claims on behalf of the Navajo Nation and other tribes. The Navajo Nation was granted leave to intervene on its own behalf and filed its own Answer asserting its claims to water. The claims of the United States and the Navajo Nation asserted the right to use, divert and impound sufficient ground and surface water to satisfy the present and future needs of the Navajo people for irrigation, domestic, industrial, aesthetic, recreational, streamflow and other purposes within the San Juan River Basin.

Negotiations for settlement of the Navajo Nation's water rights in this suit began in 1997. In 2005, the State and the Navajo Nation signed the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement ("Settlement Agreement"). In 2009, the United States Congress enacted the Northwestern New Mexico Rural Water Projects Act ("Settlement Act"), Title X, Subtitle B of the Omnibus Public Land Management Act of 2009, Public Law 111-11, which was signed into law by the President on March 30, 2009. The Settlement Act authorizes the Secretary of the Interior to sign the Settlement Agreement, which calls for the Settling Parties to move the Court to enter a proposed partial final judgment and decree setting forth the Navajo Nation's water rights in the San Juan River Basin in New Mexico.

Summary of the Proposed Partial Final Judgment and Decree:

The following tables and text provide a summary of the terms of the proposed Navajo Decree. Because of the complexity of the settlement, not all the terms and conditions of the Settlement Agreement and proposed Navajo Decree are set forth in this Notice. Interested parties are directed to the Settlement Agreement and the proposed Navajo Decree, as described at the end of this Notice, in order to review the full text of settlement terms.

The proposed Partial Final Judgment and Decree confirms reserved water rights of the Navajo Nation for the diversion and use of 606,660 acre-feet per year (afy) or the quantity of water necessary to supply a depletion of 325,670 afy, whichever is less. The rights are summarized in Table 1 below. Pursuant to the terms of the proposed Navajo Decree, the rights described in Table 1 will be adjudicated a priority date of June 1, 1868; however, for purposes of priority administration, the Navajo Nation has agreed in the Settlement Agreement that the uses served by projects built by the Bureau of Reclamation shall be administered with the priorities designated by the "*" below, in accordance with the terms of the Navajo Decree.

**Table 1: Reserved Water Rights of the Navajo Nation
described in Partial Final Judgment and Decree**

	<u>Diversion (afy)</u>	<u>Depletion (afy)</u>	<u>Priority</u>
1. Navajo Indian Irrigation Project	508,000	270,000	06/17/1955 *
2. Fruitland-Cambridge Irrigation Project	18,180	7,970	06/01/1868
3. Hogback-Cudei Irrigation Project	48,550	21,280	06/01/1868
4. Navajo-Gallup Water Supply Project	22,650	20,780	06/17/1955 *
5. Animas-La Plata Project	4,680	2,340	05/01/1956 *
6. San Juan River municipal/industrial uses	2,600	1,300	06/01/1868
7. Reserved ground water uses	2,000	2,000	06/01/1868
<hr/> TOTAL:	<hr/> 606,660	<hr/> 325,670	

The water made available to the Navajo Nation for the Navajo Indian Irrigation Project and the Navajo-Gallup Water Supply Project is based upon water rights held by the United States pursuant to New Mexico State Engineer File No. 2849 with a priority date of June 17, 1955, for uses from water originating above Navajo Reservoir, and pursuant to New Mexico State Engineer File No. 3215 with a priority date of December 16, 1968, for inflows to the San Juan River arriving below Navajo Dam. The Navajo Nation would share in shortages in the Navajo Reservoir water supply with the San Juan-Chama Project, the Jicarilla Apache Nation, the Hammond Irrigation Project and other Navajo Reservoir contractors.

The water made available to the Navajo Nation for the Animas-La Plata Project is based upon water rights held by the United States pursuant to New Mexico State Engineer File No. 2883 with a priority date of May 1, 1956. The Navajo Nation would share in shortages in the Project water supply with the San Juan Water Commission, La Plata Conservancy District and other Project contractors.

The direct-flow water rights of the Navajo Nation in the San Juan River Basin would retain a senior priority and not share shortages. However, when the direct flow of the San Juan River is insufficient to supply current beneficial use demands under direct-flow water rights in New Mexico, the Navajo Nation agrees to make up to 12,000 afy of water available from its Navajo Reservoir supply water allocations to service the reserved rights for the Shiprock municipal uses and the Hogback-Cudei and Fruitland-Cambridge irrigation projects prior to making a call for priority administration of the river system. This alternate water source provision of the Settlement Agreement, incorporated by the Decree, reduces the risks and occurrences of shortage to water users with only direct-flow water rights that otherwise would be anticipated to result from priority calls on the river. Under the Navajo Decree, the Hogback-Cudei and Fruitland-Cambridge irrigation projects would have rights to divert up to 221

cfs and 100 cfs, respectively, from the direct flow of the San Juan River to the extent necessary to meet beneficial use demands.

In addition to the rights described above, the Navajo Nation: (1) may divert supplemental carriage water, if needed, at such times as the New Mexico State Engineer determines that there is excess direct flow available for such diversion without impairment to water rights in New Mexico; (2) may develop additional ground water on Navajo lands subject to no impairment of other water rights and forbearance of surface water rights to offset any amount of depletion of San Juan River flows in excess of 2,000 afy caused by the aggregate of all Navajo Nation ground-water diversions (exclusive of stock uses to be quantified in the Supplemental Decree and *de minimus* residential domestic and stock tank uses); (3) would have a small amount of rights it has acquired under state law; (4) would have additional rights to *de minimus* residential domestic and stock tank uses that are not served by public water supply systems; and (5) may re-use tail water or waste water so long as the re-use does not cause the Nation's diversion and depletion rights to be exceeded. In all instances, the rights of the Navajo Nation to divert and use water from the San Juan River Basin in New Mexico would be limited to the amounts of water necessary for beneficial uses.

Individual members of the Navajo Nation that have been allotted land by the United States are not bound by the Settlement Agreement and may have additional claims to historic and existing agricultural and domestic uses in the San Juan River Basin. However, any reserved rights that might be adjudicated to such members for additional future uses would be serviced by, or offset by corresponding reductions in use under, the water rights of the Navajo Nation.

Under the Navajo Decree, the Navajo Nation would administer its rights on Navajo lands in New Mexico subject to non-impairment of non-Navajo Nation water rights and subject to the provisions of the Navajo Decree and the Settlement Agreement. The Navajo Nation would be responsible for measuring and reporting water uses under its rights, and the State Engineer would monitor Navajo Nation water uses for compliance with the decree. Transfers of water rights of the Navajo Nation to uses to be located off Navajo lands would require approval of the State Engineer.

Description of Existing, Historic and Future Uses of Proposed Rights

The reserved rights of the Navajo Nation listed in Table 1 above are based upon existing and historic water uses and upon future use needs of the Navajo Nation within the San Juan River Basin in New Mexico. Tables 2 and 3 below provide an estimate of the portion of each reserved right that is based upon existing and historic water rights and the portion that is based on additional uses that will be developed in the future. Table 2 breaks down the acreage of the three Navajo irrigation projects based on project acres that already exist and are already irrigable by existing project works ("Existing Acreage") and additional acreage that will be developed for irrigation in the future once additional project infrastructure is constructed ("Future Acreage"). Table 3 gives a breakdown based on historic and existing diversion for non-irrigation uses ("Historic Diversions") and additional diversions for future Navajo uses ("Future Diversions"). A more detailed description of the existing, historic and future uses of the Navajo Nation reserved rights is provided in a document entitled "Detailed Summary of Navajo Water Rights to be Adjudicated by the Proposed Partial Final Judgment and Decree," which is available as described at the end of this Notice.

**Table 2: Irrigation Reserved Rights:
acreage estimated based upon Existing and Future Use**

	<u>Existing Acreage</u> (acres)	<u>Future Acreage</u> (acres)	<u>Totals</u> (acres)
1. Navajo Indian Irrigation Project	69,090	41,540	110,630
2. Fruitland-Cambridge Irrigation Project	3,335	0	3,335
3. Hogback-Cudei Irrigation Project	8,830	0	8,830
<hr/>			
TOTALS:	81,255	41,540	122,795

**Table 3: Domestic, Municipal and Industrial (and other Non-Irrigation) Reserved Rights:
estimated diversions based upon Existing and Future Use**

	<u>Historic</u> <u>Diversion (afy)</u>	<u>Future</u> <u>Diversion (afy)</u>	<u>Total</u> <u>Diversion (afy)</u>
4. Navajo-Gallup Water Supply Project	N/A-new project	22,650	22,650
5. Animas-La Plata Project	N/A-new project	4,680	4,680
6. San Juan River municipal/industrial uses	2,280	320	2,600
7. Reserved ground water uses	1,534	466	2,000
<hr/>			
TOTAL:	3,814	28,116	31,930

The following seven paragraphs provide further information regarding the status of each of the water rights described in Tables 2 and 3:

1. Navajo Indian Irrigation Project. On June 13, 1962, Congress authorized the diversion of 508,000 afy from the Navajo Reservoir water supply to irrigate up to 110,630 acres at the Navajo Indian Irrigation Project pursuant 76 Stat. 96 (Public Law 87-483), as amended by the Act of September 25, 1970 (84 Stat. 867; Public Law 91-416). The project has not been completely built. As of 2008, 69,090 acres were developed for irrigation and another 41,540 acres are to be developed.

2. Fruitland-Cambridge Irrigation Project. This project is an irrigation project on the Navajo Nation Reservation that is tied to an existing ditch on the San Juan River. The 18,180 afy diversion and 7,970 afy depletion described are calculated to irrigate the 3,335 acres currently under ditch.
3. Hogback-Cudei Irrigation Project. This project is an irrigation project on the Navajo Nation Reservation that is tied to an existing irrigation ditch on the San Juan River. The 48,550 afy diversion and 21,280 afy depletion described are calculated to irrigate 8,830 acres currently under ditch. Historically, approximately 4,180 acres have been irrigated in any given year, and an additional
4. Navajo-Gallup Water Supply Project. Congress authorized the diversion from the San Juan River of 22,650 afy of water by the Navajo Nation for uses in New Mexico from the Navajo-Gallup Water Supply Project, pursuant to the Northwestern New Mexico Rural Water Projects Act of March 30, 2009 (123 Stat. 1367; Public Law 111-11). The Navajo-Gallup Water Supply Project has not been built. Thus, this water has not been previously used by the Navajo Nation.
5. Animas-La Plata Project. In 2000, Congress authorized the Navajo Nation to receive an annual depletion of 2,340 afy from the Animas-La Plata Project pursuant to the Colorado Ute Settlement Act Amendments of 2000 (114 Stat. 2763A-258; Public Law 106-554, Appendix D, Title III). The Navajo Nation is currently not utilizing this supply of water because the Animas-La Plata Project and the Navajo Nation Municipal Pipeline (see No. 4 above), both of which will convey water to the Navajo Nation in the San Juan River Basin, have not been completely built.
6. Municipal and Industrial Uses. To support various municipal, industrial and domestic uses in New Mexico, the Navajo Nation currently (2005 data) receives an annual water diversion of 2,280 afy from the San Juan and Animas Rivers. The remaining diversion amount of 320 afy will supply, in part, the future municipal, industrial and domestic uses of the Navajo Nation in New Mexico.
7. Reserved Ground Water Uses. Because of the expansive, arid nature of the San Juan River Basin, the Navajo Nation has various needs to meet individual, community and agricultural needs throughout the basin from ground water sources. These ground water sources can have an impact (depletion) on the San Juan River. It is estimated that the current diversion amount for these uses is 1,534 afy (2007 data). The remaining 466 afy of ground water withdrawals will be available for the future needs of the Navajo Nation in New Mexico.

Summary of Rights to be Determined in Later Proceeding:

The water rights of the Navajo Nation to historic and existing irrigation, recreation, and livestock uses on Navajo lands from surface water diverted from tributaries to the San Juan River or ground water withdrawn from the San Juan River Underground Water Basin are not included in this Decree. These rights will be described in a Hydrographic Survey Report to be prepared by the United States in a manner acceptable to the State Engineer. Once the Hydrographic Survey Report is completed, the Settling Parties will file a Motion for Entry of a Supplemental Decree describing the rights of such uses.

Table 4 below provides preliminary estimates prepared by the United States of maximum historic or existing depletion demands associated with the Supplemental Decree.

Table 4: Estimate by United States of Potential Maximum Quantities That May be Claimed by the Navajo Nation in the Supplemental Decree

	<u>Depletion (afy)</u>	<u>Percent (%)*</u> <u>of All Navajo Water Rights</u>
1. Tributary Irrigation Uses	31,255	8.60
2. Tributary Livestock Uses	400	0.12
3. Tributary Stock Pond and Recreation Uses		
a. 30 reservoirs > 100 acre-ft capacity	1,800	0.50
b. 2,270 stock ponds < 100 acre-ft capacity	3,900	1.30
<hr/> TOTAL:	<hr/> 37,355	<hr/> 10.52%

*Values provided are % of total, maximum Navajo diversion and depletion contemplated in both the Decree and Supplemental Decree)

The rights to be described in the Supplemental Decree: (1) will be limited to historic and existing use by the Navajo Nation; (2) are located mostly on ephemeral tributaries in the Chaco Wash drainage, which enter the San Juan River downstream of the Hogback Project diversion dam and upstream of Shiprock; (3) have an average annual at site consumptive use that for most uses might be significantly less than the potential maximum use due to inadequate supply; (4) are restricted from transfer to the San Juan River by paragraph 11 of the Supplemental Decree; (5) have a depletion impact on the San Juan River that is substantially less than the actual at-site consumptive uses due to salvage of channel losses in the ephemeral tributary drainages; and (6) are not anticipated to result in an increase over the historic depletions on the San Juan River. Furthermore, the Settling Parties believe that there are no circumstances under which the United States or the Navajo Nation could make a priority call to curtail uses from the San Juan, La Plata or Animas Rivers based on the rights to be described in the Supplemental Decree.

Additional information including maps describing current estimates of the nature, extent, and location of the approximate the tributary stockponds/reservoirs and tributary irrigation uses are currently available at the websites described below.

The State of New Mexico has not reviewed the information used by the United States to prepare the estimates in Table 4 and disclaims any agreement with the quantities and percentages stated therein. Based on other information available to the State, the State believes that the total depletion right for the uses that will be adjudicated to the Navajo Nation in the Supplemental Decree is substantially less than the United States' estimates in Table 4. Agreement by the Settling Parties (or determination by the Court) regarding the quantities to be stated in the Supplemental Decree will be required before the Settling Parties file the Motion for Entry of the Supplemental Decree.

No objection to the rights to be described in the Supplemental Decree is required to be filed at this time. Upon completion of the Hydrographic Survey Report, an additional notice of a further proceeding in this matter will be provided that announces the availability of the Hydrographic Survey Report and the Supplemental Decree, and summarizes more specifically the water rights of the Navajo Nation proposed for historic and existing irrigation, recreation, and livestock uses on Navajo lands from surface water diverted from minor tributaries to the San Juan River or ground water withdrawn from the San Juan River Underground Water Basin. Objections to such rights may be filed at that time.

Rights and Options of Water Right Claimants:

If you own water rights in the San Juan River Basin, you have the following rights and options:

1. You may do nothing. If you do not wish to file an objection to the proposed Navajo Decree, you do not have to take any further action. Whether you object or not, you will be bound by the partial final judgment and decree ultimately entered by the Court, even though its terms may be different from the terms of the proposed Navajo Decree.
2. You may file an objection to the proposed Navajo Decree. If you wish to object, you or your attorney must file an objection to the proposed Navajo Decree ("Objection") with the Court Clerk for the Eleventh Judicial District Court, 103 South Oliver Driver, Aztec, NM 87410, on or before _____. There is no fee for filing an Objection. You may, but are not required, to be represented by an attorney.

This Court will approve the Navajo Decree if it finds that settlement is fair, adequate, and reasonable, and consistent with the public interest and applicable law. In addition to any other information that an Objection provides, an Objection must describe why you believe the proposed Navajo Decree does not meet this standard. An Objection must also include the following information: (a) name and address of the objector; (b) description of water rights claimed by the objector; (c) statement of the specific legal and factual basis of the objection; and (d) how the objector will be injured or harmed by the proposed Navajo Decree in a legally cognizable way. Objections that do not provide all of the required information will be subject to dismissal.

IF YOU FILE AN OBJECTION YOU ARE AGREEING TO PARTICIPATE IN THE NAVAJO DECREE PROCEEDING. IF YOU FILE AN OBJECTION BY _____, YOU WILL BE REQUIRED TO ATTEND OR HAVE YOUR LEGAL COUNSEL ATTEND ON YOUR BEHALF A MANDATORY PRE-HEARING SCHEDULING CONFERENCE TO BE HELD BEFORE THE COURT ON _____. Further proceedings on your Objection will be scheduled at that scheduling conference.

A water right claimant's failure to file a timely Objection or failure to appear at the pre-hearing scheduling conference shall preclude that claimant's subsequent participation in the Navajo Decree Proceeding, but that water rights claimant will be bound by said proceeding whether the claimant was served and joined as a defendant, participated in, or received actual notice of the proceeding.

Public Meetings:

The United States, the State and the Navajo Nation will be hosting a series of public meetings regarding the proposed Navajo Decree and the proceeding to adjudicate the Navajo Nation's water rights in the San Juan River Basin. The following is a list of times, dates and locations of the meetings:

<u>Date:</u>	<u>Time:</u>	<u>Location:</u>
_____	_____	Farmington
_____	_____	Shiprock
_____	_____	Aztec
_____	_____	Bloomfield
_____	_____	Crownpoint

For further information:

This Notice provides only a brief summary of the water rights described in the proposed Navajo Decree. Copies of the proposed Navajo Decree, and the Settlement Agreement and the Settlement Act which serve as the basis for the description of the Navajo Nation's rights in the proposed decree, are available for you to review at the locations stated below. In addition, a copy of background information describing the proposed rights is available for inspection at the same locations. The background information includes: (1) existing records, reports, surveys and maps of the Navajo Indian Irrigation Project, the Hogback-Cudei Irrigation Project and the Fruitland-Cambridge Irrigation Project; (2) existing planning documents, permits and authorizations, including federal legislation, environmental impact statements and records of decision, for the Animas-La Plata Project and the Navajo Gallup Water Supply Project; and (3) existing records of use, plans, permits and authorizations for Navajo municipal and industrial uses.

Eleventh Judicial District Court
103 South Oliver Drive
Aztec, NM 87410

Office of the State Engineer
100 South Oliver Drive
Aztec, NM 87410

Bureau of Indian Affairs
Eastern Navajo Agency
Office of Real Estate Services
P. O. Box 328
(Federal Building 2002)
Crownpoint, NM 87313

Bureau of Indian Affairs
Shiprock Agency
P. O. Box 966
(Highway 491, building is behind
First National Bank Building)
Shiprock, NM 87420

The proposed Navajo Decree, the Settlement Agreement and the Settlement Act are also available for review at the Eleventh Judicial District Court's website (look under Navajo Settlement):

<http://sjrba.11thjdc.com/>

These documents are also available for review at the State Engineer's website at:

http://www.ose.state.nm.us/legal_ose_proposed_settlements_sj.html

Information explaining the Navajo Decree Proceeding and how to file an Objection may be obtained from the Joe M. Stell Water Ombudsman Program at the Utton Transboundary Center of the University of New Mexico School of Law. You may call the toll-free Water Adjudication Helpline at 1-866-822-6134 (press 1). Leave your name, phone number, and question. They will attempt to call you back by the next business day. Additional information may be found at the Center's website at:

http://uttoncenter.unm.edu/ombudsman_3.html

Witness the hand and seal of the Eleventh Judicial District Court for the State of New Mexico
this _____ day of _____, 20__.

Weldon F. Neff

Court Executive Officer

Eleventh Judicial District Court

103 South Oliver Drive

Aztec, NM 87410

**Detailed Summary of Navajo Water Rights
to be Adjudicated by the Proposed Partial Final Judgment and Decree
December 14, 2009**

The proposed Partial Final Judgment and Decree confirms reserved water rights of the Navajo Nation for the diversion and use of 606,660 acre-feet per year (afy) or the quantity of water necessary to supply a depletion of 325,670 afy, whichever is less. Although the proposed Navajo Decree generally describes the priority date for these reserved water rights as June 1, 1868, pursuant to the terms of the settlement, the Navajo Nation has agreed in the Settlement Agreement that the uses served by projects built by the Bureau of Reclamation shall be administered with the priority dates associated with appropriations for these projects pursuant to permits approved by the State Engineer and held by the Secretary of the Interior, in accordance with the terms of the Navajo Decree. The following table and narrative description provide a detailed summary of the rights.

Summary Table

The rights are summarized in the table below. Although the proposed Navajo Decree generally describes the priority date for these reserved water rights as June 1, 1868, pursuant to the terms of the settlement, the Navajo Nation has agreed in the Settlement Agreement that the uses served by projects built by the Bureau of Reclamation shall be administered with the priorities designated by the "*" below, in accordance with the terms of the Navajo Decree.

	<u>Diversion (afy)</u>	<u>Depletion (afy)</u>	<u>Priority</u>
Navajo Indian Irrigation Project *	508,000	270,000	06/17/1955
Fruitland-Cambridge Irrigation Project	18,180	7,970	06/01/1868
Hogback-Cudei Irrigation Project	48,550	21,280	06/01/1868
Navajo-Gallup Water Supply Project *	22,650	20,780	06/17/1955
Animas-La Plata Project *	4,680	2,340	05/01/1956
San Juan River municipal/industrial uses	2,600	1,300	06/01/1868
Ground water uses	2,000	2,000	06/01/1868
<hr/> TOTAL:	<hr/> 606,600	<hr/> 325,670	

Summary Description

(1) Navajo Indian Irrigation Project. This project was authorized by Public Law 87-483 (76 Stat. 96) in 1962, and the US Bureau of Reclamation presently continues to construct and develop the project facilities. According to Bureau of Indian Affairs records, about 69,090 acres were developed for irrigation under the project as of 2008, which acreage amounts to about 62.5 percent of the 110,630 acres authorized by Public Law 87-483 to be irrigated by the project. The actual amount of crop acres irrigated in 2008 was about 60,630 acres, with the remaining 8,460 developed acres being fallowed or in limited irrigation status as needed only to maintain ground cover for the Conservation Reserve Program. In 2008, the project diverted a total of about 206,820 acre-feet from Navajo Reservoir, of which about 188,190 acre-feet was depleted from the San Juan River system. Water deliveries to the project are subject to sharing of shortages in the Navajo Reservoir supply with other Navajo Reservoir supply water contracts for uses in New Mexico per section 11 of Public Law 87-483, as amended by the Settlement Act.

Source of Water Supply:	Navajo Reservoir supply.
Administrative Priority Date:	June 17, 1955 (per Permit No. 2849).
Purposes of Use:	Irrigation, agricultural products processing, aquaculture and other project-related uses (per Settlement Act).
Water Right Acres:	110,630 acres service area under the project (per Public Law 87-483).
Diversion Amount:	An average diversion amount of 508,000 acre-feet per year from Navajo Reservoir (per Public Law 87-483), though it is anticipated that average annual diversions will be substantially less than this amount due to project design changes and future implementation of water conservation measures. To be measured as running ten-year averages, with the annual diversion not to exceed the ten-year average maximum diversion by more than 15 percent.
Depletion Amount:	An average depletion amount of 270,000 acre-feet per year from the San Juan River stream system, based on diversions less return flows to the San Juan River. To be measured as running ten-year averages, with the annual diversion not to exceed the ten-year average maximum diversion by more than 15 percent.
Maximum Diversion Rate:	1,800 cubic-feet-per-second (cfs) per physical capacity of existing diversion works.

(2) Fruitland-Cambridge Irrigation Project. This project is an existing irrigation project with 3,335 acres service area under the existing ditch.

Source of Water Supply:	San Juan River.
Administrative Priority Date:	June 1, 1868.
Purpose of Use:	Irrigation.
Water Right Acres:	3,335 acres service area under the project.
Farm Delivery Requirement:	3.3 acre-feet per acre.
Diversion Amount:	An annual maximum diversion amount of 18,180 acre-feet at the existing Fruitland Project diversion dam, to be enforced only if annual project diversion requirements are enforced upon non-Navajo ditches in the San Juan River Basin in New Mexico.
Depletion Amount:	An annual maximum depletion amount of 7,970 acre-feet.
Maximum Diversion Rate:	100 cfs, with provisions to reduce the maximum diversion rate to as low as 83.4 cfs pending effectiveness of project rehabilitation in reducing the rate of diversion necessary to meet the beneficial use demands under the project.

(3) Hogback-Cudei Irrigation Project. This project is an existing irrigation project with 8,830 acres under the existing ditch.

Source of Water Supply:	San Juan River.
Administrative Priority Date:	June 1, 1868.
Purpose of Use:	Irrigation.
Water Right Acres:	8,830 acres service area under the project.
Farm Delivery Requirement:	3.3 acre-feet per acre.
Diversion Amount:	An annual maximum diversion amount of 48,550 acre-feet at the existing Hogback Project diversion dam, to be enforced only if annual project diversion requirements are enforced upon non-Navajo ditches in the San Juan River Basin in New Mexico.
Depletion Amount:	An annual maximum depletion amount of 21,280 acre-feet.
Maximum Diversion Rate:	221 cfs.

(4) Animas-La Plata Project. This project was authorized by the Colorado Ute Settlement Act Amendments of 2000 (114 Stat. 2763A-258; Public Law 106-554, Appendix D, Title III). The US Bureau of Reclamation has begun the initial filling of the project's water storage facility, Lake Nighthorse formed by Ridges Basin Dam near Durango, Colorado. The authorized Navajo Nation Municipal Pipeline is in the beginning stages of construction, which pipeline will convey the Navajo Nation's project water allocation from Farmington to Navajo communities between Fruitland and Shiprock. The Navajo Nation's use of its project water will commence upon completion of the pipeline, and is subject to sharing of shortages in the project water supply with other project contractors in New Mexico and Colorado.

Source of Water Supply:	Animas River.
Administrative Priority Date:	May 1, 1956 (per Permit No. 2883).
Purpose of Use:	Municipal, domestic, industrial, and commercial uses.

Diversion Amount: An annual maximum diversion amount of 4,680 acre-feet from the Animas River.
 Depletion Amount: An annual maximum depletion amount of 2,340 acre-feet from the San Juan River stream system (per Public Law 106-554), based on diversions less measured return flow discharges.
 Maximum Diversion Rate: 12.9 cfs.

(5) Navajo-Gallup Water Supply Project. This project was authorized in 2009 by the Settlement Act. The US Bureau of Reclamation has completed National Environmental Policy Act and Endangered Species Act section 7 consultation compliance activities for the project, and is working on final design criteria preparatory to project construction. The project has two points of diversion: (1) Navajo Reservoir for delivery of water to communities along the US Highway 550 corridor; and (2) the San Juan River near Kirtland for delivery of water to communities along the San Juan River valley from Fruitland to Shiprock and generally along the US Highway 491 corridor between Shiprock and Gallup, with connections also to communities in the vicinity of Crownpoint and Gallup, New Mexico, and Window Rock, Arizona. It will be several years until project pipeline and water treatment facilities are sufficiently constructed to allow the Navajo Nation to begin taking delivery of its project water.

(a) Rights for Project Uses in New Mexico: Water deliveries to the project for uses in New Mexico are subject to sharing of shortages in the Navajo Reservoir supply with other Navajo Reservoir supply water contracts for uses in New Mexico per section 11 of Public Law 87-483, as amended by the Settlement Act.

Source of Water Supply: Navajo Reservoir supply and San Juan River.
 Administrative Priority Date: June 17, 1955, for water from the Navajo Reservoir supply (per Permit No. 2849) and December 16, 1968, for water from inflows arising below Navajo Dam (per Permit No. 3215).
 Purpose of Use: Municipal, domestic, industrial, and commercial uses.
 Diversion Amount: An annual maximum diversion amount of 22,650 acre-feet for project uses in New Mexico (per Settlement Act). At full project development, it is anticipated that about 3,800 acre-feet would be diverted at Navajo Reservoir through the existing Navajo Indian Irrigation Project canal intake and about 18,850 acre-feet would be diverted at the existing Public Service Company of New Mexico's San Juan Generating Station diversion dam.
 Depletion Amount: An annual maximum total depletion amount of 20,780 acre-feet for project uses in New Mexico (per Settlement Act), based on diversions less measured return flow discharges.

Maximum Diversion Rate: 48.1 cfs combined for both points of diversion.

- (b) Rights for Project Uses in Arizona: Water deliveries to the project for uses in Arizona from the Navajo Reservoir supply are to be shorted completely before any residual amount of shortage is to be shared among Navajo Reservoir supply contracts for uses in New Mexico per section 11 of Public Law 87-483, as amended by the Settlement Act. These diversion rights for project uses in Arizona are not transferrable to other uses, including to uses in New Mexico, and shall not be leased or subcontracted by the Navajo Nation to third parties.

Source of Water Supply: Navajo Reservoir supply and San Juan River.
Administrative Priority Date: June 17, 1955, for water from the Navajo Reservoir supply (per Permit No. 2849) and December 16, 1968, for water from inflows arising below Navajo Dam (per Permit No. 3215).

Purpose of Use: Municipal, domestic, industrial, and commercial uses.

Diversion Amount: An annual maximum diversion amount of 6,411 acre-feet from the San Juan River in New Mexico at the existing Public Service Company of New Mexico's San Juan Generating Station diversion dam for project uses in Arizona (per Settlement Act).

Depletion Amount: An annual maximum depletion amount of 6,411 acre-feet for project uses in Arizona (per Settlement Act), subject to an accounting of said depletion within the State of Arizona's allocations of water from the Colorado River system.

Maximum Diversion Rate: 17.7 cfs.

(6) Additional Surface Water Rights for Municipal, Industrial and Domestic Uses. These rights are intended to settle claims to water rights of the Navajo Nation for reserved and historic municipal, industrial, domestic, and commercial uses along the San Juan River valley in New Mexico. According to water use reports filed by the City of Farmington with the Office of the State Engineer, the Navajo Tribal Utility Authority (NTUA)-Shiprock Agency during the period 2003-2007 purchased about 1,820 acre-feet of treated water per year from the City, on average, for Navajo municipal and domestic uses in Navajo communities along river, including about 2,160 acre-feet in 2007. According to Navajo Nation Department of Water Resources data, the NTUA-Shiprock Agency during the same period pumped from the San Juan River or the Hogback Canal an additional 320 acre-feet of water per year, including about 580 acre-feet in 2005, for Navajo municipal and domestic uses. In 2005, a total of about 2,280 acre-feet of water was diverted by or delivered to the NTUA-Shiprock Agency. In the future, these uses will be accounted against the Navajo Nation's water rights. Rights claimed by the Navajo Nation for industrial uses at the Navajo Shiprock Helium Plant and the Navajo Shiprock Mill, both of which operated during the 1950s and 1960s, under License No. 2472 (for an annual diversion of about

1,450 acre-feet) and License No. 2807 & 2875 (for an annual diversion of 1,200 acre-feet), respectively, will be cancelled.

Source of Water Supply:	San Juan River.
Administrative Priority Date:	June 1, 1868.
Purpose of Use:	Municipal, domestic, industrial, and commercial uses.
Diversion Amount:	An annual maximum diversion amount of 2,600 acre-feet.
Depletion Amount:	An annual maximum depletion amount of 1,300 acre-feet, based on diversions less measured return flow discharges.
Maximum Diversion Rate:	5.0 cfs.







(7) Ground Water Rights for Municipal, Industrial and Domestic Uses. Because of the expansive, arid nature of the San Juan River Basin within New Mexico, the Navajo Nation needs to meet many individual, community, and agricultural needs throughout the basin from local ground-water sources. Additional future development of these ground-water sources may have a depletion impact on the San Juan River, depending upon location and geologic formation from which ground water is withdrawn. The Navajo Nation Department of Water Resources Technical Memorandum on the Navajo-Gallup Water Supply Project estimated that about 1,670 acre-feet of local ground-water development within the San Juan River Basin in New Mexico could help meet future domestic water demands for Navajo communities in the basin. Based on 2007 usage, it is estimated that the current diversion amount for these uses is 1,534 afy. The remaining 466 afy of ground water withdrawals will be available for the future needs of the Navajo Nation in New Mexico. Under the Settlement Agreement, any cumulative depletion of San Juan River flow resulting from all ground-water withdrawals by the Navajo Nation for any and all uses, including historic and existing uses but excluding *de minimus* uses from individual domestic wells, that is in excess of 2,000 afy would have to be offset by the Navajo Nation reducing equal amounts of depletion under its surface water rights.

Source of Water Supply:	Ground Water in the San Juan River Basin.
Purpose of Use:	Municipal, domestic, industrial, commercial, agricultural and other purposes.
Diversion Amount:	An annual maximum diversion amount of 2,000 acre-feet with an administrative priority date of June 1, 1868. Additional ground-water diversions over and above 2,000 afy would have an administrative priority date equal to the date on which the Navajo Nation gives notice to the State Engineer of its intent to drill or pump wells to effectuate such additional diversions (except in the case of drilling a replacement well), and would be subject to non-impairment of surface water and ground water rights in New Mexico.
Depletion Amount:	An annual maximum depletion of San Juan River flow of 2,000 acre-feet.

Draft - 12/02/09

Approximate Location of Navajo Nation Water Impoundments, in the Juan River Basin, New Mexico

Legend

-  Impoundments >100ac/ft
-  Impoundments <100ac/ft
-  Towns & Cities
-  Basin Drainage
-  Basin Lands
-  State Boundary

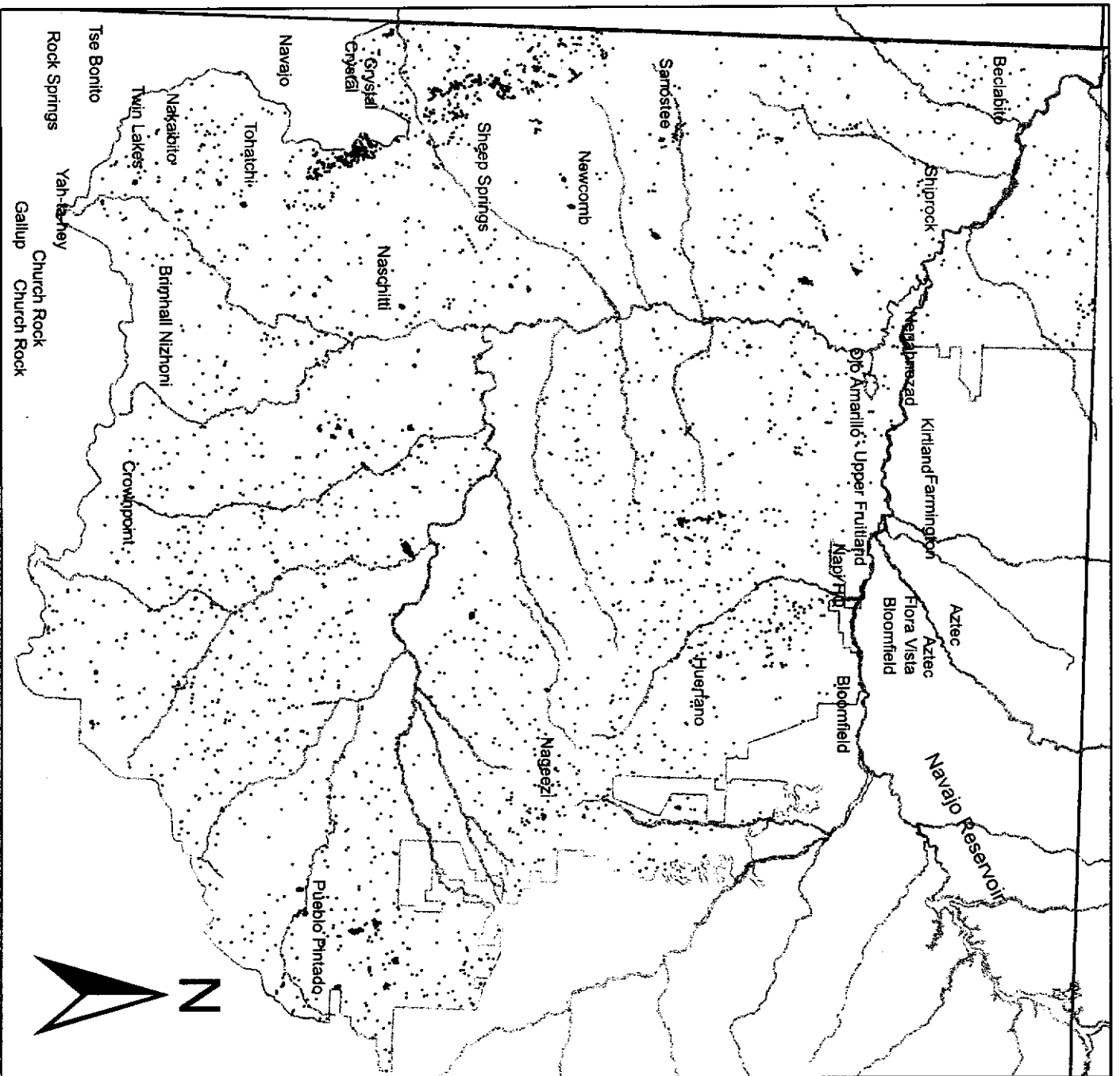

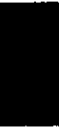





Exhibit G

Draft - 12/02/09
 Approximate Location of
 Navajo Nation Tributary
 Irrigated Acreage, San Juan River
 Basin, New Mexico

Legend

-  Basin Drainage
-  Tributary Irrigation
-  Basin Lands
-  State Boundary
-  Towns & Cities

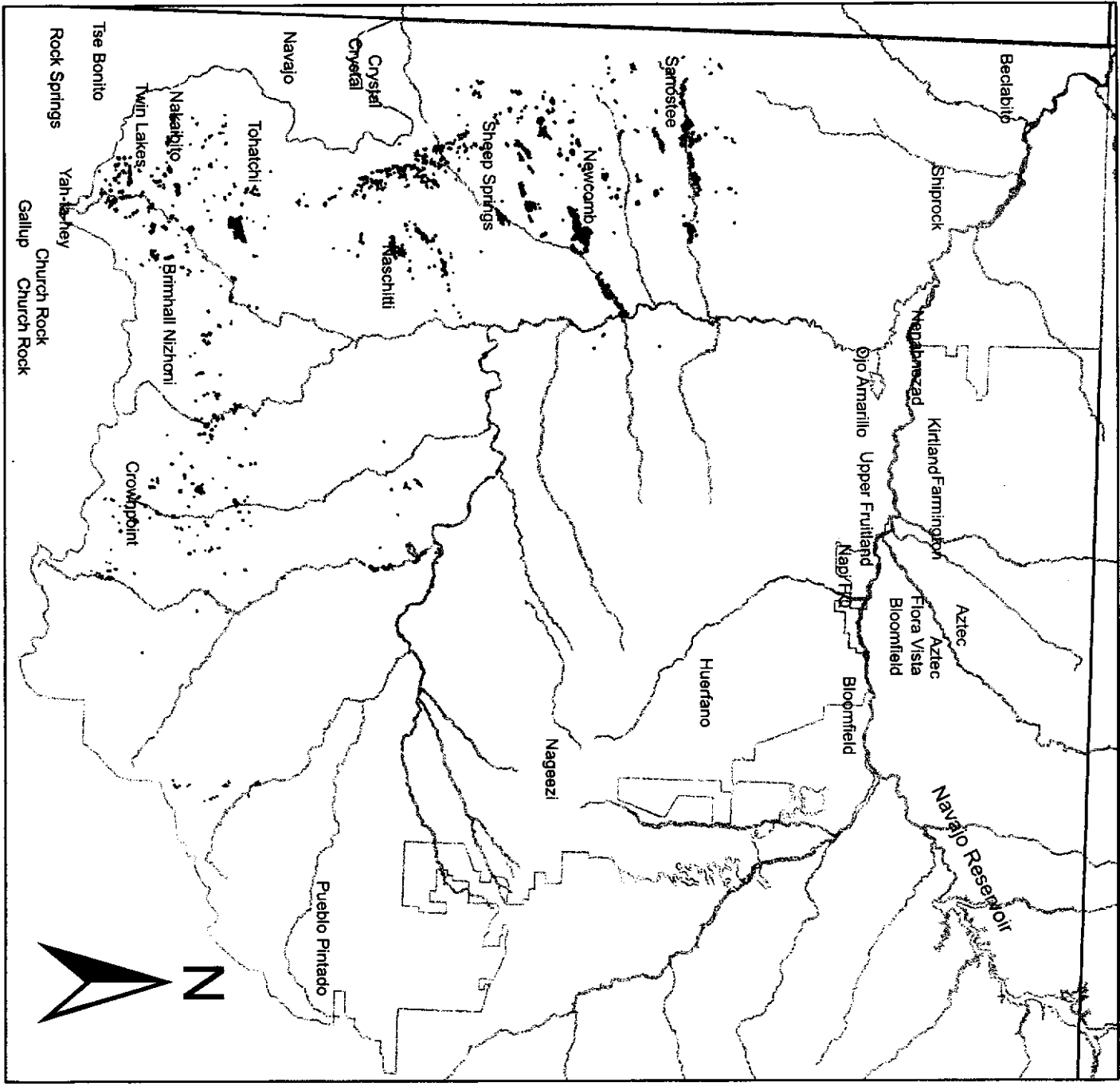


Exhibit H