DISTRICT COURT
SAN JUAN COUNTY NM
FILED
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ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN
STATE OF NEW MEXICO

STATE OF NEW MEXICO ex rel.
State Engineer,
Plaintiff,
v.
UNITED STATES OF AMERICA, et al.,
Defendants.
v.
THE JICARILLA APACHE TRIBE and the
NAVAJO NATION,
Defendant-Intervenors.

No. CV 75-184
SAN JUAN RIVER
ADJUDICATION SUIT

Claims of the Navajo Nation
Case No.: AB-07-1

GARY L. HORNER'S RESPONSE TO THE STATE OF NEW MEXICO'S MEMORANDUM IN SUPPORT OF SETTLEMENT MOTION FOR ENTRY OF PARTIAL FINAL DECREES

SUMMARY

1. Name of party filing the present document: **Gary L. Horner**

2. Title of the present document: **GARY L. HORNER'S RESPONSE TO THE STATE OF NEW MEXICO'S MEMORANDUM IN SUPPORT OF SETTLEMENT MOTION FOR ENTRY OF PARTIAL FINAL DECREES**

3. Descriptive summary of the relief sought: **This document represents Mr. Horner's response to the State of New Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Final Decrees.**

4: Number of pages of the present document: **106 (including 30 pages of Exhibits)**

COMES NOW Gary L. Horner, Esq., *In Propria Persona* (hereinafter referred to in the first person), and respectfully responds to the STATE OF NEW MEXICO'S MEMORANDUM IN SUPPORT OF SETTLEMENT MOTION FOR ENTRY OF PARTIAL FINAL DECREES, which was filed in the present matter on April 15, 2013 ("State's Memo re Settlement Motion").

As and for good cause for said Response I state:

JUDGE

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I. Introduction.

A. The State's Memo re Settlement Motion is not a dispositive motion.

First, it should be noted that the State's Memo re Settlement Motion is not a motion for summary judgment. The State's Memo re Settlement Motion is not formatted as a motion for summary judgment, the State has made no attempt to comply with the requirements of NMRA Rule 1-056 (re summary judgment), and said Rule 1-056 is not even mentioned in said Memo. Similarly, the State's Memo re Settlement Motion is not formatted as a motion for judgment on the pleadings, the State has made no attempt to comply with the requirements of NMRA Rule 1-012 (re motions for judgment on the pleadings), and said Rule 1-012 is not even mentioned in said Memo.

The State has not provided a list of authorities as required by NMRA Rule 1-056 (D)(2). The State has not provided a numbered list of the material facts with respect to which it asserts no genuine issue exists, as required by said Rule 1-056 (D)(2). In fact, the State's Memo re Settlement Motion sets forth no facts at all. To underscore the point, the State begins its detailed discussion with the statement that:

> "*As argued below*, the parties have met their burden, and the Court should enter the Proposed Decrees." State's Memo re Settlement Motion, p. 6. Emphasis added.

In sum, the State's Memo re Settlement Motion is not a motion for summary judgement nor in any manner a dispositive motion.

B. The State's Memo re Settlement Motion should have been filed with the

Settlement Motion, more than two years ago.

Rather, the State's Memo re Settlement Motion appears to be intended precisely as the title states; that is, said Memo is intended to be a brief in support of the SETTLEMENT MOTION OF UNITED STATES, NAVAJO NATION AND STATE OF NEW MEXICO FOR ENTRY OF PARTIAL FINAL DECREES, which was filed in the present matter on January 3, 2011 ("Settlement Motion").

However, as a brief in support of the Settlement Motion, the State's Memo re Settlement Motion should have been filed at the time the Settlement Motion was filed; that is, more than two years ago. In that regard, NMRA Rule 1-007.1 [Motions; how presented] provides:

> "A. **Requirement of written motion.** All motions, except motions made during trial, or as may be permitted by the court, shall be in writing and shall state with particularity the grounds and the relief sought.
>
> "B. **Unopposed motions.** The movant shall determine whether a motion will be opposed. If the motion will not be opposed, an order approved by all parties shall accompany the motion.
>
> "C. **Opposed motions.** The motion shall recite that the movant requested the concurrence of all parties or shall specify why no such request was made. . . .
>
> "Notwithstanding the provisions of any other rule, the movant may file with any opposed motion a brief or supporting points with citations or authorities. If the motion requires consideration of facts not of record, the movant shall file copies of all affidavits, depositions or other documentary evidence to be presented in support of the motion. Motions to amend pleadings shall have attached the proposed pleading. A motion for judgment on the pleadings presenting matters outside the pleading shall comply with Rule 1-056 NMRA. . . ." Emphasis added.

Similarly, Local Rule, LR11-104 [Motions] specifically provides:

> "A. All motions will state the grounds therefor with particularity. A motion which fails to state the grounds as required may be denied summarily by the court.
>
> "B. Each motion . . . shall be accompanied by a supporting written brief, separate and apart from the motion itself. Such brief shall be denominated as 'Brief in Support of Motion to (subject of motion).' " Emphasis added.

The Settlement Motion itself did not state with particularity the grounds therefore. In fact, the Settlement Motion was barely two paragraphs long (attached the Navajo Settlement and Proposed Decrees) and requested that "the Court consider and then enter the Partial Final Decree and Supplemental Partial Final Decree, thereby finally adjudicating the Navajo Nation's water

rights in the San Juan River Basin in New Mexico." Settlement Motion, pp. 1-2.

Therefore, as a brief in support of the Settlement Motion, the State's Memo re Settlement Motion should be disregarded or even stricken as untimely.

C. The Court intended that the Settling Parties file a dispositive motion in support of the Settlement Motion on April 15, 2013.

The THIRD AMENDED ORDER GRANTING MOTIONS TO EXTEND DEADLINES IN PART AND SETTING SCHEDULE GOVERNING DISCOVERY AND REMAINING PROCEEDINGS, entered in the present matter on March 15, 2013 ("3/15/13 Scheduling Order") provided:

> "2. March 31, 2013: Close of Discovery.
> "3. Dispositive Motions
> "a. April 15, 2013: Settling Parties' memorandum in support of the Settlement Motion of the United States, Navajo Nation and State of New Mexico for Entry of Partial Final Decrees, filed January 3, 2011.
> "b. April 15, 2013: Non-Settling Parties' dispositive motions;
> "c. May 10, 2013: Responses to dispositive motions.
> "d. May 24, 2013: Replies to responses to dispositive motions.
> "e. Week of June 10, 2013: Hearing on dispositive motions." 3/15/13 Scheduling Order, pp. 2-3.

Therefore, it appears that the Court intended the Settling Parties to file dispositive motions in support of their Settlement Motion on April 15, 2013. However, the concept of the State's Memo [In Support Of the] Settlement Motion (as opposed to a dispositive motion) is actually consistent with the precise language of the 3/15/13 Scheduling Order (3. a.).

D. The Court's Scheduling Orders have completely fouled up the respective burdens of the Parties.

On September 2, 2009, the Settling Parties filed their JOINT MOTION FOR ORDER GOVERNING INITIAL PROCEDURES FOR ENTRY OF A PARTIAL FINAL JUDGMENT

AND DECREE OF THE WATER RIGHTS OF THE NAVAJO NATION ("SP Motion re Initial Procedures"). Pursuant to said SP Motion re Initial Procedures, the Settling Parties proposed wholly inappropriate standards and burdens in the present matter; essentially proposing that the Objectors should entirely bear the initial burden of establishing that the Navajo Settlement should *not* be approved and that the Proposed Decrees should *not* be entered. These issues were litigated in the present matter for more than two and one-half years. Finally, on April 19, 2012, the Court entered the AMENDED ORDER ESTABLISHING THE LEGAL STANDARDS FOR EVALUATING THE PROPOSED DECREES AND RESPECTIVE BURDENS OF PROOF ("Order re Legal Standards").

Pursuant to said Order re Legal Standards, the Court determined that:

> "The Settling Parties must demonstrate that the Proposed Decrees are 'fair, adequate, and reasonable, and consistent with the public interest and applicable law.' Order re Legal Standards, pp. 1-2. Emphasis added.

Said Order re Legal Standards also provided, regarding the Respective Burdens of the parties, that:

> "The Settling Parties shall have the burden of production and the burden of persuasion to demonstrate that (a) the Settlement Agreement is the product of good faith, arms-length negotiations, (b) the provisions contained in the Settlement Agreement and the Proposed Decrees will reduce or eliminate impacts on junior water rights, (c) there is a reasonable basis to conclude that the Settlement Agreement provides for less than the potential claims that could be secured at trial, and (d) the Settlement Agreement is consistent with public policy and applicable law. The Settling Parties must first demonstrate that the Proposed Decrees satisfy these four elements by prima facie evidence to meet their burden of production. If the Settling Parties satisfy the initial burden of production, the burden of rebutting the Settling Parties' evidence shall shift to the Objectors. The Settling Parties, however, shall retain the burden of persuasion by a preponderance of the evidence. The Objectors need not demonstrate injury to their own water rights claims in order to state a cognizable objection." Order re Legal Standards, p. 3. Emphasis added.

In that regard, the Court has clearly, appropriately, determined that the Settling Parties have the (initial) burden of proof in the present matter. Only after the Settling Parties establish a *prima facie* case that they are entitled to the relief requested (approval of the Navajo Settlement and Proposed Decrees) does the burden of rebutting the Settling Parties' case shift to Objectors.

In the present matter, there was no complaint filed with respect to the Settling Parties' requested approval of the Navajo Settlement and Proposed Decrees. Similarly, the Settling Parties provided no brief, or authority, in support of the Settlement Motion at the time of filing the Settlement Motion. Objectors were left to their own devices to determine not only upon what authority the Settling Parties relied in support of their Settlement Motion, but also, Objectors were left to their own devices to determine how the Navajo Settlement and Proposed Decrees would adversely affect their own use of water. Rather, pursuant to the 3/15/13 Scheduling Order,[1] the Settling Parties' were not required to provide authority for their Settlement Motion

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[1] Regarding dispositive motions, in addition to the 3/15/13 Scheduling Order, the ORDER (1) GRANTING SETTLING PARTIES' MOTION TO EXTEND CERTAIN DEADLINES AND (2) SETTING SCHEDULE GOVERNING DISCOVERY AND REMAINING PROCEEDINGS, entered in the present matter on February 3, 2012 ("2/3/12 Scheduling Order"), provided:

"6. **February 1, 2013: Close of Discovery.**

"7. **Dispositive Motions**

"a. **March 1, 2013:** Dispositive motions by any party, including the Settling Parties' memorandum in support of the Settlement Motion of the United States, Navajo Nation and State of New Mexico for Entry of Partial Final Decrees, filed January 3, 2011.

"b. **April 1, 2013:** Responses to dispositive motions.

"c. **April 16, 2013:** Replies to responses to dispositive motions.

"d. **Week of May 6, 2013:** Hearing on dispositive motions." 2/3/12 Scheduling Order, p. 4. Underlining added.

The AMENDED ORDER SETTING SCHEDULE GOVERNING DISCOVERY ON THE NON-SETTLING PARTIES AND REMAINING PROCEEDINGS, entered in the present matter on August 7, 2012 ("8/7/12 Scheduling Order"), provided:

"9. **February 1, 2013: Close of Discovery.**

"10. **Dispositive Motions**

"a. **March 1, 2013:** Settling Parties' memorandum in support of the Settlement Motion of the United States, Navajo Nation and State of New Mexico for Entry of Partial Final Decrees, filed January 3, 2011.

"b. **April 1, 2013:** Responses to dispositive motions.

"c. **April 16, 2013:** Replies to responses to dispositive motions.

"d. **Week of May 6, 2013:** Hearing on dispositive motions." 8/7/12 Scheduling Order, p. 4.

The SECOND AMENDED ORDER SETTING SCHEDULE GOVERNING DISCOVERY ON THE NON-SETTLING PARTIES AND REMAINING PROCEEDINGS, entered in the present matter on November 6, 2012 ("11/6/12 Scheduling Order"), provided:

"8. **March 1, 2013: Close of Discovery.**

"9. **Dispositive Motions**

"a. **March 15, 2013:** Setting Parties' memorandum in support of the Settlement Motion of the United States, Navajo Nation and State of New Mexico for Entry of Partial Final

until April 15, 2013, more than two years after the Settlement Motion was filed, and then only after the close of discovery.[2]

On the other hand, Objectors were required to file their objections to the Settlement Motion on September 21, 2012, and to file dispositive motions by April 15, 2013, both before the Settling Parties were required to establish a *prima facie* case in support of the Settlement Motion.

Therefore, the 3/15/13 Scheduling Order is not consistent with the Order re Legal Standards, in that, the 3/15/13 Scheduling Order has completely fouled up the respective burdens of the parties, as previously meticulously litigated and determined by the Court pursuant to the Order re Legal Standards.

At the very least, the Settling Parties should have been required to establish a *prima facie* case that the Settling Parties were entitled to the approval of the Navajo Settlement and entry of the Proposed Decrees, before Objectors were required to file dispositive motions in the present matter.

E. Federal reserved rights for Indian Tribes are limited to the minimal needs of the Tribe to fulfill the original primary purposes for which the reservation was created; a Tribe is not entitled to water rights for future uses; such rights may be lost for nonuse; such rights do not include the right to use, lease, or market such water off

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Decrees, filed January 3, 2011.

"b. **April 10, 2013:** Responses to dispositive motions.

"c. **April 24, 2013:** Replies to responses to dispositive motions.

"d. **Week of May 6, 2013:** Hearing on dispositive motions." 11/6/12 Scheduling Order, pp. 2-3.

[2] Actually, pursuant to the 2/3/12 Scheduling Order, the Court ordered that by April 2, 2012, the State shall file a statement of the legal and factual bases for the Navajo Settlement. (2/3/12 Scheduling Order, p. 2, ¶ 1 (d).) On April 12, 2012, the State filed the STATE OF NEW MEXICO'S STATEMENT OF LEGAL AND FACTUAL BASES FOR THE SETTLEMENT ("Statement re Bases"). On September 7, 2012, the State filed the STATE OF NEW MEXICO'S REVISED STATEMENT OF LEGAL AND FACTUAL BASES FOR SETTLEMENT ("Revised Statement re Bases"). It should be noted that neither the U.S. nor the Navajo Nation signed, adopted, joined, or have indicated that they in any manner agreed with either of said Statements.

of the reservation; and such rights must be narrowly construed; and there is no legitimate basis for the State's argument that such rights need not be based on actual historic beneficial use.

Pursuant to the State's Memo re Settlement Motion, the State argues:

> "The United States Supreme Court has held that reservation Indian tribes have the right to sufficient water to provide for a permanent homeland, known as the Federal Indian Reserved Water Rights Doctrine or the *Winters* Doctrine. Under the *Winters* Doctrine, the amount of the Navajo Nation's reserved water rights is based on the amount necessary to meet the needs of the reservation, not on actual historic beneficial use, and the priority date relates to the date the United States created the reservation." State's Memo re Settlement Motion, p. 2. Emphasis added.

I have previously addressed in detail the limitations placed on the concept of federal reserved water rights for Indian tribes, pursuant to GARY L. HORNER'S MOTION FOR THE DETERMINATION OF THE APPLICABLE STANDARD FOR THE DETERMINATION OF FEDERAL RESERVED WATER RIGHTS ("Horner's Motion re Reserved Rights"), and GARY L. HORNER'S BRIEF IN SUPPORT OF GARY L. HORNER'S MOTION FOR THE DETERMINATION OF THE APPLICABLE STANDARD FOR THE DETERMINATION OF FEDERAL RESERVED WATER RIGHTS ("Horner's Brief re Reserved Rights"), which were both filed in the present matter on November 8, 2012 (both of which are hereby incorporated herein by reference), as well as GARY L. HORNER'S MOTION FOR SUMMARY JUDGMENT: THAT IS, THE "SETTLEMENT MOTION OF THE UNITED STATES, NAVAJO NATION AND THE STATE OF NEW MEXICO FOR ENTRY OF PARTIAL FINAL DECREES" SHOULD BE DENIED ("Horner's Motion for Summary Judgment"), and GARY L. HORNER'S MEMORANDUM IN SUPPORT OF GARY L. HORNER'S MOTION FOR SUMMARY JUDGMENT: THAT IS, THE "SETTLEMENT MOTION OF THE UNITED STATES, NAVAJO NATION AND THE STATE OF NEW MEXICO FOR ENTRY OF PARTIAL FINAL DECREES" SHOULD BE DENIED ("Horner's Memo re Summary Judgment"), which were both filed in the present matter on April 15, 2013 (both of which are

hereby incorporated herein by reference).

Pursuant to Horner's Brief re Reserved Rights, I demonstrated that federal reserved rights for Indian Tribes are limited to the minimal needs of the Tribe to fulfill the original primary purposes for which the reservation was created; a Tribe is not entitled to water rights for future uses; such rights may be lost for nonuse; such rights do not include the right to use, lease, or market such water off of the reservation; and such rights must be narrowly construed.

The specific point where the State goes wrong is the State's erroneous argument that, under the *Winters* Doctrine, water rights for Indian Tribes are not based on actual historic beneficial use. The State provides no authority for such argument. In that regard, I have demonstrated pursuant to GARY L. HORNER'S MOTION FOR A DETERMINATION THAT FEDERAL LAW, PERMITS, OR CONTRACTS DO NOT DEFINE THE EXTENT OF THE WATER RIGHTS FOR THE NAVAJO NATION ("Horner's Motion re Federal Law, Permits and Contracts"), and GARY L. HORNER'S BRIEF IN SUPPORT OF GARY L. HORNER'S MOTION FOR A DETERMINATION THAT FEDERAL LAW, PERMITS, OR CONTRACTS DO NOT DEFINE THE EXTENT OF THE WATER RIGHTS FOR THE NAVAJO NATION ("Horner's Brief re Federal Law, Permits and Contracts"), which were both filed in the present matter on April 15, 2013 (both of which are hereby incorporated herein by reference), that both federal and state law are firmly based upon the concept of beneficial use.

Therefore, the State's argument that "Under the *Winters* Doctrine, the amount of the Navajo Nation's reserved water rights is based on the amount necessary to meet the needs of the reservation, not on actual historic beneficial use", is in reality a very broad, very significant, mischaracterization of the law regarding federal reserved water rights for Indian tribes.

Unfortunately, said mischaracterization of the law is the erroneous premise upon which the Navajo Settlement and Proposed Decrees are based.

F. The State's arguments in support of the Navajo Settlement are in reality deceitful, fraudulent misrepresentations intended to minimize the challenges of other water users to the Navajo Settlement.

The State acknowledges that the concept of federal reserved rights poses severe threats to state-law based water rights. See State's Memo re Settlement Motion, pp. 2-3. In fact, the State argues:

> "In discussing the threat posed by federal reserved rights to state-law based rights, the New Mexico Court of Appeals recently observed in an appeal of the Commissioner of Public Land's claim to federal reserved water rights in this adjudication:
>
> > "Such dormant and indefinite rights can be very problematic when it comes to adjudicating and administering water rights in an arid state, such as New Mexico. Many stream systems in such states are already fully appropriated, and a determination that federal reserved water rights exist often requires "a gallon-for-gallon reduction in the amount of water available for water-needy state and private appropriators." [*United States v. New Mexico,* 438 U.S. 696, 705, 98 S.Ct. 3012, 57 L.Ed.2d 1052 (1978)]. Further, as demonstrated by this case, claims to federal reserved water rights are potentially very large with very early priority dates and can therefore be highly disruptive to rights existing under state law. *See* [*United States v. Jesse,* 744 P.2d 491, 494 (Colo.1987) (en banc)]. ("Because the priority date of the [federal] reserved right relates back to the date of the reservation, reserved water rights threaten existing appropriators with divestment of their rights without compensation.").
>
> "*See State of N.M. ex rel. State Engineer v. Comm'r of Pub. Lands*, 2009-NMCA-004, 145 N.M. 433, 441, 200 P.3d 86, 94 (filed 2008), *cert. denied, State Engineer v. Comm'r of Pub. Lands*, 145 N.M. 531, 202 P.3d 124 (2008), *and cert. denied, N.M. Comm'r of Pub. Lands v. N.M. ex rel. State Engineer*, 129 S.Ct. 2075, 173 L.Ed.2d 1134 (2009). State's Memo re Settlement Motion, pp. 2-3. Emphasis added.

But, after acknowledging the severe threat posed by federal reserved water rights, the State rationalizes its support for the Navajo Settlement by arguing:

> "The proposed Navajo Nation water rights settlement reconciles the conflict between federal and state law and diffuses the significant risk to existing state law-based water rights owners. The settlement does this by providing for the adjudication of the Navajo Nation's water rights in an amount and with certain conditions that protect other water rights owners. Without the settlement, the Court could recognize a much larger water right for the Navajo Nation with the most senior priority in the San Juan River Basin, and other water rights owners would have none of the protections they are afforded under the settlement. With the settlement, the Navajo Nation accepts essentially the quantity that it currently has a right to use or develop. In addition, the Navajo Nation agrees to greatly limit priority calls and to accept restrictions on its uses in order to protect other water right owners." State's Memo re Settlement Motion, p. 3.

Further, the State argues:

> "In addition, the Navajo Nation agrees to subordinate the priority dates for the vast majority of its water rights, by using water stored under a junior priority in Navajo Reservoir and Lake Nighthorse and by limiting exercise of its senior right to the direct flow of the river, which is the supply for most non-Navajo water uses in the basin. In this manner, the settlement protects junior non-Navajo water rights from Navajo Nation priority calls." State's Memo re Settlement Motion, p. 4. Emphasis added.

Further, the State argues:

> "the State quantified the Navajo Nation's 'Current Right' based on historic and existing Navajo Nation water uses and existing authorizations for additional uses of water. It does not include additional water for future use that could be asserted as necessary for a permanent homeland under the *Winters* Doctrine." State's Memo re Settlement Motion, p. 5. Emphasis added.

However, as demonstrated herein below, the protections for other water rights owners argued by the State, are at best illusory and insignificant.

The State's assertion that "[w]ith the Navajo Settlement the Navajo Nation accepts essentially the quantity that it currently has a right to use", is simply false. I have previously addressed these issues in detail pursuant to Horner's Motion re Federal Law, Permits and Contracts, and Horner's Motion for Summary Judgment.

The State's argument that the Navajo Settlement protects junior non-Navajo water rights by virtue of the subordination of the Navajo Nation's asserted 1868 priority date to junior priority dates associated with water stored in Navajo Reservoir and Lake Nighthorse is similarly calculated to mislead other water users and the Court. As I have shown in Horner's Motion re Summary Judgment, pursuant to the State's concept of "direct flow" and "storage water administration," storage water trumps senior rights in every instance. In that regard, the subordination of the Navajo Nation's asserted 1868 priority date to junior priority dates associated with water stored in Navajo Reservoir and Lake Nighthorse results in no protection whatsoever for other water users.

Also, I have shown pursuant to Horner's Motion re Federal Law, Permits and Contracts,

that the State's argument that Navajo Settlement (State) quantified the Navajo Nation's "Current Right" based on historic and existing Navajo Nation uses of water is entirely false, in that, the Navajo Nation does not now, and never has, used anywhere near the amount of water to be awarded to the Navajo Nation pursuant to the Navajo Settlement. Similarly, pursuant to Horner's Motion re Federal Law, Permits and Contracts, I demonstrated that the water rights to be awarded to the Navajo Nation have never been authorized by any federal law, state issued permits, or contracts with the United States.

Then, pursuant to Horner's Motion re Federal Reserved Rights, I demonstrated that neither the concept of federal reserved rights, nor the *Winter's* Doctrine provide for water for future uses. Accordingly, although the Navajo Nation could assert a claim for water for future uses for a permanent homeland under the *Winter's* Doctrine, there is in reality no legitimate legal basis for such a claim.

Therefore, the State's preceding arguments that: the Navajo Settlement offers protections for other water rights owners; the Navajo Settlement is based upon the Navajo Nation's current right to such water; the Navajo Nation's 1868 priority date has been subordinated to a junior storage right; the Navajo Settlement is based upon the Navajo Nation's historic and existing use of water; the Navajo Settlement is based upon existing authorizations; or that the Navajo Nation could assert a claim for future uses of water under the *Winter's* Doctrine - are in reality deceitful, fraudulent misrepresentations intended to minimize the challenges of other water users to the Navajo Settlement.[3]

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[3] Black's Law Dictionary, Fifth Edition defines "Fraud" as:
"An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Any kind of artifice

As I have shown pursuant to Horner's Motion re Summary Judgment, the ultimate effect of the Navajo Settlement on other water users could well be: the loss of water available to them at the time they need it; the requirement that such other water users enter into contracts with the Navajo Nation to obtain the water to which they were previously entitled; or the loss of their currently existing water rights entirely (that prior to the Navajo Settlement were considered to be "senior" rights).

II. The Court should deny the Settlement Motion and reject the Navajo Settlement and Proposed Decrees.

A. The Navajo Settlement is not the product of good faith, arms-length negotiations.

The State describes in significant detail the efforts involved in negotiating the Navajo Settlement, including their efforts to involve the public. (State's Memo re Settlement Motion, pp. 6-9.) However, the fact remains that the Navajo Settlement was negotiated in secret, and the after-the-fact comments from the public were largely disregarded.

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employed by one person to deceive another, Goldstein v. Equitable Life Assur. Soc. of U. S., 160 Misc. 364, 289 N.Y.S. 1064, 1067. A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestion or by suppression of truth, and includes all surprise, trick, cunning, dissembling, and any unfair way by which another is cheated. Johnson v. McDonald, 170 Okl. 117, 39 P.2d 150. 'Bad faith' and 'fraud' are synonymous, and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfairness, etc.

"Elements of a cause of action for 'fraud' include false representation of a present or past fact made by defendant, action in reliance thereupon by plaintiff, and damage resulting to plaintiff from such misrepresentation. Citizens Standard Life Ins. Co. v. Gilley, Tex.Civ.App., 521 S.W.2d 354, 356.

"It consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury. As distinguished from negligence, it is always positive, intentional. It comprises all acts, omissions, and concealments involving a breach of a legal or equitable duty and resulting in damage to another. And includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false. Whether it be by direct falsehood or by innuendo, by speech or by silence, by word of mouth, or by look or gesture. Fraud, as applied to contracts is the cause of an error bearing on a material part of the contract, created or continued by artifice, with design to obtain some unjust advantage to the one party, or to cause an inconvenience or loss to the other."

The RESPONSES TO PUBLIC COMMENTS RECEIVED ON DRAFTS OF THE SAN JUAN BASIN IN NEW MEXICO NAVAJO WATER RIGHTS SETTLEMENT, prepared by John Whipple and dated December 10, 2004 (Designated as Exhibit 6 associated with the State's Memo re Settlement Motion) ("State's Responses to Public Comments"), purports to provide the State's responses to comments received from the public regarding the Navajo Settlement. However, pursuant to said State's Responses to Public Comments, the actual specific comments from the public were not set forth. Rather, the State presented selected "comments" that it considered significant which had been condensed from actual public comments. The resulting responses to such selected comments ended up being the State's arguments in support of the Navajo Settlement, or simply an exercise in puffery (spin). Accordingly, said public comments, and said public participation generally, resulted in very few, if any, modifications to the Navajo Settlement that would alleviate the expressed concerns of the public, or offer significant protections to other water users.

1. The State negotiated the Navajo Settlement and Proposed Decrees, but it is third parties that bear the adverse effects.

While the unappropriated water within New Mexico, may belong to the public, the appropriated water is actually used by many individuals and entities. Such individuals and entities rely on state law to protect their use of water. (More specifically, such individuals and entities rely on the Office of the State Engineer ("OSE") to protect their water rights.) So, while the State may control the use of the water, it is not the State that is using the water.

One of the Settling Parties' arguments in favor of the Navajo Settlement and Proposed Decrees is that:

> "The [*United States v.*] *Cannons* [*Engineering Corp.*, 899 F.2d 79, 84 (1st Cir. 1990)] court observed that the general policy favoring settlements 'has particular force where . . . a government actor committed to the protection of the public interest has pulled the laboring oar in constructing the proposed settlement.' *Id.* at 84. In the present case three sovereign governments have worked together to craft a settlement to eliminate the need for years of litigation which would be extremely costly for all of the parties to this case." MEMORANDUM IN SUPPORT OF JOINT MOTION FOR ORDER GOVERNING INITIAL PROCEDURES FOR ENTRY OF A PARTIAL FINAL JUDGMENT AND DECREE OF THE WATER RIGHTS OF THE NAVAJO NATION ("Joint Memo for Initial Procedures"), which was attached to the JOINT MOTION FOR ORDER GOVERNING INITIAL PROCEDURES FOR ENTRY OF A PARTIAL FINAL JUDGMENT AND DECREE OF THE WATER RIGHTS OF THE NAVAJO NATION ("Joint Motion for Initial Procedures") filed in the present matter on September 2, 2009, p. 10. Emphasis added.

In that regard, the Settling Parties implied that at least one of them must be "a government actor committed to the protection of the public interest." However, the Navajo Nation, and the United States acting on behalf of the Navajo Nation, are certainly working to further the specific interests of the Navajo Nation. And, as demonstrated herein, the water rights interests of the Navajo Nation are diametrically opposed to the interests of other water users in the Basin. Accordingly, said parties are specifically not working to protect the public interest. That leaves only the State (or the OSE) to whom the Settling Parties must refer when implying that one of them is a government actor committed to the protection of the public interest.

Unfortunately, here, the State (OSE) is **not** committed to the protection of the public interest. Although the State negotiated the subject Navajo Settlement, the State is not (adversely) affected by the use of such new water right (the grant of such new water right results in no skin off the State's nose). Rather, the adverse effects of the subject Navajo Settlement are borne entirely by third party water users. While third parties may lose their water rights entirely, the individual State negotiators feel no pain whatsoever. In fact, State officials argue that their lot has been improved by the resolution of the nagging Navajo water rights claims.

This brings up the question as to: who in fact is the State (OSE) representing? The State is certainly not representing third party water users, the public generally, or the public interest. In

fact, the negotiating State (OSE) officials are merely representing themselves. It is only the State officials themselves (other than the Navajos) who gain by negotiating the Navajo Settlement, so that they do not have to deal with the Navajo water rights any longer.

In the present matter, although it is third parties that are adversely affected by the negotiated Navajo Settlement, such third parties were not involved, indeed they were not allowed to be involved, in the negotiation of the Navajo Settlement.

B. The provisions of the Navajo Settlement and Proposed Decrees will not significantly reduce or eliminate impacts on junior water rights.

1. Simply requiring the Navajo Nation to get the approval of the State Engineer before using more than 353,000 af/y of the NIIP water offers little comfort and reassurance to other water users..

The State argues that:

> "the Proposed Decree effectively limits diversions by NIIP to 353,000 afy instead of the federal statutory amount of 508,000 afy. . . ." State's Memo re Settlement Motion, p. 11.

First, pursuant to Horner's Motion re Federal Law, Permits and Contracts, I demonstrated that there is no federal statutory 508,000 af/y water right or authorization for NIIP. If there was, the Navajo Nation certainly would not simply give it up during the settlement negotiations.

Then, the Proposed Decree does not effectively limit NIIP diversions to 353,0000 af/y. Paragraph 3(a) of the Proposed Decree quite explicitly would award a water right to the Navajo Nation of 508,000 af/y for NIIP with a priority date of 1868. The 353,000 af/y limitation simply imposes the requirement that the Navajo Nation obtain approval for the use of NIIP water under certain conditions, when the diversions exceed 353,000 af/y.

Other water users certainly cannot rely on the State Engineer to withhold such approval,

when the State Engineer agreed to the Navajo Settlement and Proposed Decrees that have been specifically designed to allow the Navajo Nation to market its unused water rights to others. In fact, that is the whole point. The Navajo Nation has no reasonably foreseeable use for such large amounts of water. The point of the Navajo Settlement and Proposed Decrees is to allow the Navajo Nation to lease such water to others, so they can make money from such leases. The point is the generation of revenues, just like that was the point of the Jicarilla Settlement and Decree.

Certainly, the State Engineer has not protected other New Mexico users by declaring all of the waters of the Basin to be fully appropriated, and allowing such water to flow downstream for use in the Lower Basin for decades. The State Engineer has not protected other water rights owners by refusing to allow them to transfer (sell) their unused water rights to others. The State Engineer has not protected other water users by not challenging the United States' assertions that they own all of the water in the Basin. The State Engineer has not protected other water users by not challenging the BOR Hydrologic Determinations that drastically reduce the amount of water available for use in New Mexico.

And then, the United States and the Navajo Nation essentially argue that the United States owns all of the water, that it can allow whoever it wants to use as much as the United States will allow them to have by contract, and that this Court does not even have the jurisdiction to consider any such contracts.

It should be easy to understand why, simply requiring the Navajo Nation to get the approval of the State Engineer before using more than 353,000 af/y of the NIIP water offers little comfort and reassurance to other water users.

2. The subordination of priority dates does not protect other water users.

The State argues that:

> "The Navajo Nation agrees to subordinate priority dates for most of its water rights, agrees to take most of its water from storage instead of direct flow and agrees to shortage sharing in times of low flows." State's Memo re Settlement Motion, p. 13.

Pursuant to Horner's Memo re Summary Judgment, I demonstrated that the State Engineer's AWRM regulations, and the administration provisions of the Navajo Settlement and Proposed Decree would establish that storage rights trump senior rights in every instance. Thus, the subordination of an 1868 priority date to a 1955 storage right offers no protection or benefit to other water users whatsoever, and the Settling Parties all clearly understand that. Therefore, the Settling Parties' argument that such subordination protects other water users is fraud and collusion.

3. "Alternate water" and other stored water will not significantly reduce or eliminate impacts on junior water rights.

The State argues that:

> "The settlement imposes a second important restriction by limiting potential priority calls for the Hogback and Fruitland Projects . . . . [T]he Navajo Nation . . . is agreeing to limit the possibility of priority calls by first using 'alternate water' from storage before making a call against junior direct-flow diverters. This settlement protection greatly reduces potential priority calls against junior water rights.
>
> "The Proposed Decree recognizes a direct-flow right for the Hogback and Fruitland Projects to irrigate a combined total of 12,165 acres with a priority date of 1868. The Navajo Nation, however, agrees to limit priority calls for the Hogback and Fruitland Projects, under Paragraph 9.2 of the Settlement Agreement, by first calling on 'alternate water' from storage in times of shortage. Instead of making priority calls against up-stream junior diverters, the Navajo Nation agrees to supply the projects with up to 12,000 afy of water stored in Navajo Reservoir that is otherwise available for NIIP. Only if all of the available 'alternate water' is used up during the irrigation season may the Navajo Nation make a priority call.
>
> "Even though the amount of 'alternate water' may be reduced or eliminated in a given year if there are shortages to Navajo Reservoir contractors, the State's analysis shows the 'alternate water' protections will drastically reduce the potential for Hogback and Fruitland priority calls. Based on the hydrologic record, the 'alternate water' protection will reduce the possibility of future priority calls from a potential of one out of every two years to one out of every twenty years, on average, or approximately 5 percent of the years. *See* Whipple Affidavit at paras. 61-63 and **Exhibit 6**, Responses to Public Comments, Appendix D). Thus, the 'alternate water' would be sufficient in most years to avoid altogether a Navajo priority call.
>
> In addition to 'alternate water', the Settlement Agreement contains a separate protection for

direct-flow diverters when inflow into Navajo Reservoir drops below 225 cubic-feet-per-second (cfs) and the reservoir has sufficient storage. Under these circumstances, the Navajo Nation and the United States agree that stored water may be released to augment bypassed direct flow to make up to 225 cfs available for direct-flow diversions below the reservoir, even though the inflow is less than that. Paragraph 9.1 of the Settlement Agreement provides in part:

> "Administration of Navajo Reservoir Releases. Subject to applicable federal law, whenever total storage in Navajo Reservoir is anticipated to exceed, or does exceed, a 1,000,000 acre-feet threshold at the end of May of the current year, ... the Navajo Nation and the United States, acting in its capacity as trustee for the Navajo Nation, will not challenge the New Mexico State Engineer during the irrigation season making available to direct-flow water users on the San Juan River below Navajo Dam up to 225 cubic-feet-per-second (cfs) as measured at the San Juan River at Archuleta gauging station if inflow to the reservoir is determined to be less than 225 cfs. The direct-flow water users may divert and use water made available pursuant to this subparagraph without a contract for water from Navajo Reservoir. Making water available to direct-flow users pursuant to this subparagraph shall not impair the ability of the Secretary, in the current year, to deliver water to Navajo Reservoir water supply contractors or to provide flows to satisfy any obligation under federal law.

"During low flows, this provides direct-flow diverters a benefit of storage even though they do not hold storage rights. *See* Whipple Affidavit at para. 62 and **Exhibit 6**, Responses to Public Comments, Appendix D." State's Memo re Settlement Motion, pp. 16-17.

This section needs significant scrutiny. The State implies, but does not explicitly state, that the subject "alternate water" provisions and 225 cfs release "guarantee" offer significant protections to "direct flow" users below Navajo Dam. In fact, that is not the case at all.

To demonstrate my point, one needs to look carefully at the State's Exhibit 6, Responses to Public Comments, Appendix D (referred to above - for convenience said Appendix D is attached hereto as Exhibit 1). Said Appendix D is entitled "STUDY OF THE EFFECTS OF THE PROVISIONS OF SUBPARAGRAPHS 9.1 AND 9.2 OF THE SETTLEMENT AGREEMENT ASSUMING HISTORIC HYDROLOGY FOR THE AVAILABLE PERIOD OF RECORD 1956-2003 - Annual Summary of Amounts of Water Released from Navajo Reservoir Storage to Provide a Minimum Direct Flow of 225 cfs as per Subparagraph 9.1 of the Agreement and to Meet the Alternate Water Source Provisions for Navajo Nation San Juan River Diversions, including the Fruitland and Hogback Irrigation Projects, as per Subparagraph 9.2 of

the Agreement".[4]

a. The 225 cfs "guaranteed" release for "direct flow" users offers no significant protection for "direct flow" users below Navajo Dam.

The 225 cfs release "guarantee" is easiest, so it will be addressed first. Column 1 of Appendix D is labeled "Year" (I assume Calendar Year), and includes 48 years, from 1956 through 2003. Column 2 is labeled "Modeled May 31 Navajo Reservoir Storage (af)", and shows amounts for years 1956 through 1993. Years 1994 through 2003 are blank. It should be noted that Navajo Dam itself was not completed until 1962, and the amount of water stored in Navajo Reservoir did not reach 1,000,000 until August 1968. As indicated in said Appendix D, Column 2 is "Modeled ... Navajo Storage", and does not reflect the actual amount of water stored in Navajo Reservoir in any year.

Column 3 is where things start to get interesting. Column 3 is labeled "Release from Storage to Maintain 225 cfs Minimum Direct Flow (af). So, Column 3 shows the amount of water that would need to be released in any given year to maintain the 225 cfs "direct flow" release from Navajo Dam "guaranteed" by the Navajo Settlement. Column 3 indicates that additional water would need to be released in only two years, 1959 an additional release of 690 af, and 1977 an additional release of 216 af (for a combined total of 906 af) in order to maintain a minimum of 225 cfs released from Navajo Dam for "direct flow" users. Such amount is insignificant. indicating that the 225 cfs "guaranteed" release for "direct flow" users offers no

[4] Appendix D is not dated, and there is no indication who prepared it. However, it is assumed that said Appendix D was prepared by John Whipple. Further, said Appendix D was attached to the Responses to Public Comments that was prepared by John Whipple and dated December 10, 2004. Said Appendix D includes data for calendar year 2003, so it is assumed said Appendix D was prepared at some time during 2004.

significant protection for "direct flow" users below Navajo Dam.

But then, it must be considered that the diversion right from the Navajo Settlement for the Hogback and Fruitland ditches combined is 321 cfs, and the diversion right for said ditches is a "direct flow" right with an 1868 priority date, that predates all other water users in the Basin. Thus, if only 225 cfs is released to "direct flow" diverters, the Navajo Nation would get it all.

Therefore, the 225 cfs "guaranteed" release for "direct flow" users offers no protection for other "direct flow" users whatsoever.

b. "Alternate water" offers no significant protection for "direct flow" users below Navajo Dam.

The release of "alternate water" from Navajo Reservoir storage is shown in Column 4. Column 4 is entitled "Release from Storage for Alternate Water Source Demands for Fruitland and Hogback (af)". Column 4 shows the amount of water that would need to be released from Navajo Reservoir storage in order to insure that 325 cfs[5] of "direct flow" is available for diversion at the Navajo Hogback and Fruitland Ditches.

The concept here is that, pursuant to the Navajo Settlement, the Navajo Nation would be awarded a priority date of June 1, 1868 for the Hogback and Fruitland ditches. That would be the most senior priority date in the San Juan Basin in New Mexico. Thus, if 325 cfs were not available at the Hogback and Fruitland ditches, following an award of such priority date to the Navajo Nation, the Navajo Nation could issue a "priority call," such that other "direct flow" water users upstream from said ditches would be cutoff, to insure that said 325 cfs of "direct

[5] The Navajo Settlement would award the Navajo Nation the right to divert a combined total of 321 cfs for the Hogback and Fruitland ditches.

flow" reaches the Hogback and Fruitland ditches.[6] The "alternate water" provisions of the Navajo Settlement provide that to minimize such priority calls, the Navajo Nation and United States agree that, when Navajo Reservoir levels exceed 1,000,000 af on May 1 of any given year, the United States will release up to 12,000 af in such year, for the benefit of the Navajo Nation's Hogback and Fruitland ditches, as necessary, to insure that 325 cfs reaches said ditches.

Column 4 indicates that the release of "alternate water" from Navajo Reservoir storage would be required in 23 of the 48 years considered. That is, that in such years, there would not be sufficient "direct flow" available to satisfy the 325 cfs diversion demand required for the Navajo ditches (with an 1868) priority date. Apparently, that is the basis for Mr. Whipple's determination that without the "alternate water" provisions of the Navajo Settlement, the Navajo Nation would, or could, make a priority call on other "direct flow" users in approximately one out of every two years.

Further, Column 4 indicates that in two of the 48 years (1956 and 1959), the Navajo Nation would use the entire 12,000 af amount of "alternate water." Then, Column 8, entitled "Shortage to Direct-Flow Uses Not Met by Alternate Water Source Provisions (af)", indicates amounts of 19,864 af and 7,109 af for the years 1956 and 1959 respectively. Apparently, that is intended to indicate that in such years, the "direct flow" released from Navajo Reservoir would be short of the amount required to meet all of the "direct flow" demands by such amounts, and

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[6] Under the Navajo Settlement, and the State Engineer's Active Water Resource Regulations, water users with contracts for storage water from Navajo Reservoir, or Lake Nighthorse (the Animas-La Plata Project) would not be cutoff, and any releases from such reservoirs for contract users would be protected from diversion by "direct flow" users (those water users without contracts with the United States for storage water). I assert that the concept of "direct flow" and the protection of storage water releases are illegal. In that regard, please refer to GARY L. HORNER'S MEMORANDUM IN SUPPORT OF GARY L. HORNER'S MOTION FOR SUMMARY JUDGMENT: THAT IS, THE "SETTLEMENT MOTION OF THE UNITED STATES, NAVAJO NATION AND THE STATE OF NEW MEXICO FOR ENTRY OF PARTIAL FINAL DECREES" SHOULD BE DENIED, filed in the present matter on April 15, 2013 ("Horner's Memo re Summary Judgment"), pp. 169-188.

some "direct flow" water users would be cutoff by such amounts. Thus, Column 9, entitled "Period of Shortage to Direct-Flow Uses (Dates)", indicates the specific dates during each of such years that such "direct flow" uses would need to be cutoff.

Column 9 also indicates that in 2002 and 2003, "direct flow" uses would need to be cutoff, and Column 8 indicates that the amount in such years to be cutoff would be 63,758 af and 8,542 af respectively. (Column 4 of said Appendix D indicates that in 2002 and 2003, only 6,000 af of "alternate water" would be utilized. Why only 6,000 af of "alternate water" would be utilized in said years, rather than 12,000 af, is not explained.)

Thus, said Appendix D concludes that in approximately 4 out of 48 years, even with the use of such "alternate water," some "direct flow" uses would need to be cutoff. The specific conclusion is stated as:

> "Under the alternate water source provisions of subparagraph 9.2 of the Settlement Agreement, the years of shortage experienced by the direct-flow users below Navajo Dam are reduced from 46% of the years (22 years out of 48, excluding total shortages of 10 acre-feet or less in 1968 and 1994) to 8% of the years (4 years out of 48) for the period of record. If historic hydrology patterns repeated, about two years of shortage would occur every 45 years or so, or in about 4% of years, pursuant to subparagraph 9.2. . . ." Appendix D, Summary of Findings: (2).

Thus, the State argues that:

> "the 'alternate water' protection will reduce the possibility of future priority calls from a potential of one out of every two years to one out of every twenty years, on average, or approximately 5 percent of the years." State's Memo re Settlement Motion, p. 17.

First, it should be noted that said Appendix D indicates that even with the utilization of the concept of "alternate water," the Navajo Nation would, or could, make priority calls in 4 out of 48 years, that would be in 8% of the years. How the State, or Mr. Whipple, get to the conclusion that "[i]f historic hydrology patterns repeated, about two years of shortage would occur every 45 years or so, or in about 4% of years, pursuant to subparagraph 9.2", is unexplained.

However, said Appendix D probably raises more questions than it answers. First, as noted previously, Appendix D is not be based on actual historic data (Navajo Dam was not completed until 1962, and the storage levels in Navajo Reservoir presented in Appendix D do not correspond to actual storage levels in any year.

Second, the specific releases from Navajo Dam, assumed or utilized in said Appendix D, are not shown. This is a very significant piece of missing relevant information. I assume that the releases from Navajo Dam would include the amounts released for "direct flow" *plus* the amounts released for users below the Dam with contracts for storage water. In addition, it is not at all clear whether the Appendix D study included additional releases for the endangered fish (that would be additional releases of 500 cfs to 1,000 cfs).

Third, Appendix D does not show inflows into Navajo Reservoir. According to the State's concept of "direct flow," the "direct flow" releases from Navajo Dam should be equal to the inflow into Navajo Reservoir at any point in time.

Fourth, Appendix D does not show the amount of water being diverted into the San Juan-Chama Project above Navajo Reservoir. The San Juan-Chama Project has a relatively junior priority date. Accordingly, the "direct flow" water released from Navajo Dam (to users with "senior" priority dates) should be calculated to be the inflow into Navajo Reservoir *plus* the amount diverted into the San Juan-Chama Project at any point in time.

Fifth, Appendix D does not show the amount of water flowing or available in the Animas River. It is the flow of the Animas River and the water released from Navajo Dam that combine to serve the demands of water users in the Valley. When Animas River flows are high, less water is required to be released from Navajo Dam. However, of greater concern, is that when Animas

River flows are low, the amount of water released from Navajo Dam must be increased significantly if all of the water use demands are to be met.

Sixth, Appendix D apparently assumes the total depletions in New Mexico would be 610,000 af/y in all of the years considered. (See Appendix D, Endnote (1).) (Currently, the average quantity of water used (depleted) in the San Juan Basin in New Mexico is approximately 400,000 af/y.) It is assumed, but, it is not at all clear, that Appendix D meets all of that 610,000 af/y demand, except as noted in Columns 8 and 9. My first impression from Appendix D was that in 23 of the 48 years represented, "alternate water" was needed to satisfy the Hogback and Fruitland 325 cfs diversion requirements. That led me to believe that at such times in such years there would not be *any* water available for other "direct flow" diverters. I am not now certain that that logically follows. However, in two of the years (1956 and 1977), additional water was required to be released from Navajo Dam to meet the 225 cfs "guaranteed" "direct flow" release from Navajo Dam. Accordingly, I have a great deal of difficulty comprehending just how the "direct flow" available will be sufficient to meet all of the "direct flow" demand.[7] [8]

Seventh, and most significantly, said Appendix D does not appear to take into

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[7] Appendix D assumes that 700 cfs is required to meet the "direct flow" demands on the Animas River and San Juan River below Navajo Dam. (See Appendix D, Assumptions generally used in study, (3).) I estimate that the total demand on the Animas River and San Juan River below Navajo Dam is currently 800 cfs (not including the 500 cfs to 1,000 cfs flow requirement for the endangered fish below Shiprock). The difference between my estimate of total demand of 800 cfs, and the Appendix D estimate of 700 cfs for "direct flow," could well be the water required for those water users with contracts for storage water, such as the Hammond Conservancy District, the San Juan Water Commission, Public Service Company of New Mexico and NGWSP.

[8] Appendix D assumes the full development of New Mexico's full share of water from the Colorado River Basin (610,000 af/y used in the Appendix D study). It should be noted at some point, that although New Mexico is currently using only approximately 400,000 af/y of such full water supply, there is absolutely no water available for any non-Indian future uses, other than the water rights associated with the Animas-La Plata Project for the San Juan Water Commission and the La Plata Conservancy District. The New Mexico State Engineer has considered the waters of the San Juan Basin to have been fully appropriated for decades, based upon the filings by, or on behalf of the United States for more than 1,500,000 af/y. Therefore, the only currently unused water available is stored water from Navajo Reservoir, which has been entirely allocated to either the Navajo Nation or the Jicarilla Apache Tribe, pursuant to contracts with the United States, and with the apparent blessing of the State Engineer.

consideration the Reoperation of Navajo Dam. There is no indication in said Appendix D that the massive 5,000 cfs spring releases were considered, which would drastically reduce the amount of water stored in Navajo Reservoir. But even more significantly, the Reoperation of Navajo Dam imposes a "hard," or maximum release of 250 cfs throughout most of the year. Again, Appendix D does not show the releases from Navajo Dam. However, the BOR has had to release as much as 1,000 cfs during the summer in recent years to meet the flow requirements for the endangered fish (and to cover all existing uses). That is, the BOR has had to release 1,000 cfs from Navajo Dam, when total New Mexico depletions are only 400,000 af/y, rather than the 610,000 af/y ostensibly used in the Appendix D study. Therefore, if the releases from Navajo Dam were reduced from 1,000 cfs at such times, to the 250 cfs allowed pursuant to the reoperation of Navajo Dam, 750 cfs of the currently existing 800 cfs demand below Navajo Dam would need to be cutoff. Accordingly, the numbers of the Appendix D study simply do not add up, not even close.

Therefore, the "alternate water" provisions of the Navajo Settlement cannot be relied upon as a significant protection for other "direct flow" users.

4. The administration provisions of the Navajo Settlement and Proposed Decrees are illegal and devastating to other water users.

The State argues that:

> "The Navajo settlement does not simply resolve the adjudication of Navajo Nation's water rights claims. It takes the next step and resolves potential disputes regarding the administration of those water rights." State's Memo re Settlement Motion, p. 20.

Pursuant to Horner's Memo re Summary Judgment, I have demonstrated that the administration provisions of the Navajo Settlement and Proposed Decrees are illegal and

devastating to other water users.

C. There is no reasonable basis to conclude that the Navajo Settlement provides for less than the potential claims that could be secured at trial.

1. The notion of federal reserved water rights does not support the water rights to be awarded pursuant to the Proposed Decrees, and certainly does not support the notion that the Navajo Nation could claim even greater quantities of water than provided in the Proposed Decrees.

Generally, the State argues that under *Winters* and its progeny, the Navajo Nation could claim greater quantities of water than provided in the Proposed Decrees. State's Memo re Settlement Motion, pp. 28-33. I have already addressed these issues in significant detail pursuant to Horner's Motion re Reserved Rights and Horner's Brief re Reserved Rights. Pursuant to Horner's Brief re Reserved Rights I demonstrate that none of the water rights of the Proposed Decree can, or should, be considered to be federal reserved water rights. Similarly, a significant portion of the water rights of the Proposed Supplemental Decree cannot, or should not, be considered to be federal reserved water rights.

Pursuant to Horner's Brief re Reserved Rights, I demonstrated that federal reserved rights for Indian Tribes: are limited to the minimal needs of the Tribe to fulfill the original primary purposes for which the reservation was created; a Tribe is not entitled to water rights for future uses; such rights may be lost for nonuse; such rights do not include the right to use, lease, or market such water off of the reservation; and such rights must be narrowly construed

The Proposed Decrees are based upon a misconception of the notion of federal reserved (*Winter's*) water rights. The Proposed Decree would grant to the Navajo Nation the right to

divert and use more than 600,000 af/y from the Animas and San Juan Rivers in New Mexico. The Proposed Supplemental Decree would grant to the Navajo Nation the right to use an additional nearly 27,000 af/y from the San Juan Basin in New Mexico. All of such water rights would receive a priority date of June 1, 1868, which would predate the priority dates of all other water uses in the Basin. Further, pursuant to said Proposed Decrees, such water rights would not be subject to abandonment, forfeiture or loss for non-use.

The Proposed Decree itself represents an award of water rights to the Navajo Nation of as much as 400,000 af/y more than the Navajo Nation has ever previously used. Obviously, these factors are potentially devastating on existing water users in the Basin.

The Navajo Settlement is largely based on the erroneous premise that the Navajo Nation is entitled to enormous amounts of water for future uses, with priority dates for all of such water as of the date the Navajo Reservation was created (June 1, 1868), ostensibly pursuant to the *Winters* doctrine. As shown in Horner's Brief re Reserved Rights, such premise is completely erroneous, with no foundation in the law. Instead, the Navajo Nation should receive water rights in this adjudication suit, which are based on their actual, current beneficial uses.

Therefore, most of the water rights of the Proposed Decrees cannot be considered to be federal reserved rights. Certainly, the law does not support the State's argument that the concept of federal reserved rights would support an even greater quantity of water rights for the Navajo Nation than are to be awarded pursuant to the Proposed Decrees.

Pursuant to the State's Memo re Settlement Motion, the State makes no attempt to address the arguments and authority I presented pursuant to Horner's Motion re Reserved Rights and Horner's Brief re Reserved Rights (which were both filed on November 8, 2012).

a. Looking to Arizona for guidance on the law with respect to Indian water rights for future uses is a very bad idea.

One argument asserted by the State (that I did not address pursuant to Horner's Motion re Federal Reserved Rights) was that:

> "recent Indian water rights settlements in Arizona have recognized quantities far in excess of a tribe's historic beneficial use. [1]"
>
> > [1] For example, the Gila River Indian Community settlement approved by Congress in 2004 and decreed in the Arizona adjudication recognized more than 600,000 acre-feet of water for a tribe whose reservation is less than 400,000 acres, has a tribal membership of less than 20,000 and which has historically irrigated 20,000 acres." State's Memo re Settlement Motion, p. 31.

However, it must be noted that matters in Arizona are unique. Part of Arizona's issues involve the Central Arizona Project ("CAP"). The CAP is a Bureau of Reclamation (BOR) project that was constructed in the 1970s and 80s to move water via an enormous canal from the Colorado River at Lake Havasu to Phoenix and then all the way to Tucson. Said CAP project sounded like a good idea, enabling Arizona to divert a substantial portion of its 2.8 million af/y share of water from the Colorado River.

But, once the Project was completed, the CAP Project participants found that they could not repay their share of the Project construction costs. Ultimately, the matter was resolved by the Project participants relinquishing their water rights associated with the Project to various Indian Tribes. Such water was significantly in excess of the current needs of such Indian Tribes (future uses). Under federal Reclamation law, Indian tribes are not required to repay their share of the Project construction costs. This allowed the Project participants to avoid their construction cost repayment obligations.

Then, the previous Project participants turned around and leased said water back from the Indians pursuant to a long-term (100 year) lease for a one-time, up-front fee of $1,500 per acre-foot. Normally, Reclamation law would require the repayment of construction costs to kick-in

again, if the Indians leased the water to others. However, the Project participants were able to coax Congress into passing legislation approving the deal, that provided that such repayment obligation would not kick-in in the subject instance. Thus, the subject legislation superseded Reclamation law on the matter.

The result is that the State of Arizona, most of the larger municipal governments and the Indian Tribes (as well as Congress) all agreed in such instance, that such Indian tribes should be granted water for future uses, with the right to lease the subject water to users off of the reservation. Pursuant to such deal, the Indian tribes and Project participants all benefitted. Unfortunately, it was the American taxpayer who ended up paying the price that should have been borne by the Project participants. Water is a very big deal in Arizona, and the CAP deal was very complex, having been put together by major-league water lawyers.

It is not clear that the Navajo Nation was specifically involved in the CAP matter, but the Navajo Nation was clearly paying close attention. The present Navajo Settlement resembles the Arizona deal in several respects. First, the Navajo Nation would receive a large amount of water for future uses (although such water for future uses is not supported by the law). Next, the Navajo Nation would receive the right to lease the water off of the reservation, enabling it to make money on any water rights it acquires for which it has no use (although the law does not provide the right for Indian tribes to lease such water off of the reservation).

But, the present matter differs from the CAP deal in several significant respects. First, the CAP deal had a prearranged lease agreed to by the parties (the $1,500/af one-time fee for a 100 year lease). The present matter has no such lease agreement and no limit to the amount the Navajo Nation may charge for the lease of the subject water once it acquires the right to such

water.

Another significant difference is that the CAP deal involved water to be diverted from the Colorado River that had not been previously used in Arizona. The present matter differs in that the adjudication of the subject water rights will take water away from current users to give to the Navajo Nation.

In that regard, the Navajo Nation must perceive that they have scored a major coup with respect to the subject Navajo Settlement. Most of the New Mexico minor-leaguers, who have had no such experiences, never saw it coming.

In the present matter, if the subject Navajo Settlement is approved, the Navajo Nation will end up with the right to most of the water in the San Juan Basin in New Mexico, and current water users will be required to pay the Navajo Nation for the water they currently use, at whatever rates the Navajo Nation should decide to charge (that is, if the Navajo Nation does not lease the water to out-of-state water users at rates local users cannot afford).

The Arizona Gila River Indian Settlement was made in the political environment where all of the major water players in Arizona had agreed to the CAP deal. Accordingly, the notions that: Indian tribes could be given water rights for future uses; and Indian tribes could lease such water to the largest water users in the State (in order to avoid their CAP repayment obligations), had been baked-in to the political environment, regardless of the law to the contrary.

Therefore, the point here is that looking to Arizona for guidance on the law with respect to Indian water rights for future uses is a very bad idea.

b. Any reference to the NRCE Report should be disregarded, or even stricken from the record in the present matter.

It should be noted that the State makes significant reference to the *Reconnaissance-Level Reserved Water Rights Quantification in the San Juan and Colorado River Basins for the Navajo Nation in New Mexico, prepared by Natural Resources Consulting Engineers, Inc., for the Navajo Nation Department of Justice*, March 2004 ("NRCE Report"). I cannot comment intelligently on said NRCE Report because I have not seen it. To my knowledge, after diligent search, a copy of said NRCE Report was not provided as an exhibit by any of the Settling Parties, was not provided during discovery, and is not available on the internet. Accordingly, any reference to said NRCE Report should be disregarded, or even stricken from the record in the present matter.

2. There is no legitimate basis for the State's argument that the Navajo Settlement is based on historic, existing and/or authorized Uses.

The State argues that:

> "The core of the settlement is recognition of the Navajo Nation's historic and existing irrigation projects." State's Memo re Settlement Motion, p. 33.

I have previously addressed this argument pursuant to Horner's Motion re Federal Law, Permits and Contracts, and Horner's Brief re Federal Law, Permits and Contracts.[9] Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the Proposed Decree would grant to the Navajo Nation the right to divert and use more than 613,000 af/y from the Animas and San Juan Rivers in New Mexico. The Proposed Supplemental Decree would grant to the Navajo Nation the right to use an additional, 26,872 af/y, of water from the San Juan Basin in New Mexico, for a total of nearly 640,000 af/y. All of such water rights would carry a priority

[9] Horner's Motion re Federal Law, Permits and Contracts was filed with the Court the same day the State's Memo re Settlement Motion was filed with the Court. Therefore, the State has not yet been required to respond to Horner's Motion re Federal Law, Permits and Contracts.

date of June 1, 1868, which would predate the priority dates of all other water uses in the Basin. The vast majority of such water rights have never been used before, and pursuant to said Proposed Decrees, such water rights would not be subject to abandonment, forfeiture or loss for non-use. Obviously, such an award of water rights is potentially devastating on existing water users in the Basin.

The State argues that the Navajo Settlement and Proposed Decrees encompass only water rights for "existing and authorized" uses, and that such "authorizations" are based upon federal law, permits and contracts. Similarly, the Navajo Nation argues that the Navajo Settlement and Proposed Decrees encompass only water rights for "existing and authorized" uses, that such "authorizations" are based upon federal law, permits and contracts, and that this Court has no jurisdiction to do more than simply approve the water rights already conclusively established by Congress and state permits. I assert that federal law, permits, or contracts - do not define, authorize, or establish, the extent of the water rights with respect to which the Navajo Nation may be entitled in the present matter. To date, the water rights of the Navajo Nation have never been properly established, and the determination of the water rights of the Navajo Nation is clearly within the jurisdiction of this Court.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that both federal reclamation law and New Mexico water law are firmly rooted in the doctrines of prior appropriation and beneficial use.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that federal law provides, or the courts have established that: with regard to federal reclamation projects the federal government is a storer and/or deliverer of water and not the owner of the

water right; property right in water right is separate and distinct from property right in reservoirs, ditches, or canals; water rights acquired for federal reclamation projects belong to the ultimate water user rather than the federal government; water rights for federal reclamation projects never vest in the United States; the United States is not the owner of the water, rather the United States is a carrier or trustee for owners; water rights for federal reclamation projects must be acquired in strict compliance with state law, if state law cannot be complied with, the federal government is not to initiate the project; federal law specifically defers to state appropriation laws in determining right of the United States to appropriate water within a state; state law governs the distribution of water once released from a federal reclamation project; nothing in the reclamation law shall be construed as to affect or interfere with the laws of any state or territory relating to the control, appropriation, use, or distribution of water, or any vested right acquired thereunder; the Secretary of the Interior, in carrying out the provisions of the reclamation law, shall proceed in conformity with state laws; nothing in the reclamation law shall affect any right of any state or landowner, appropriator, or user of water from any interstate stream; the doctrine of prior appropriation, linked to beneficial use of the water, arose through local customs, laws, and judicial decisions; even before many of the Western States had been admitted to the Union, Congress deferred to the growing local law; local appropriation rights are rights which the government has, by its conduct, recognized and encouraged and is bound to protect; under the equal-footing doctrine, the Western States, upon their admission to the Union, acquired exclusive sovereignty over the unappropriated waters in their streams; the authority of each state in the disposal of the water-supply within its borders is unquestioned and supreme; the states gained absolute dominion over their nonnavigable waters upon their admission to the Union: the water

through which the reclamation would be accomplished does not belong to the federal government, the reservoirs in which the water is stored belong to the government, but the water belongs to the states and will be controlled by them; authority over intrastate waterways lies with the states; federal legislation cannot override state laws in respect to the general subject of reclamation; each State has full jurisdiction over the lands within its borders, including the beds of streams and other waters; the foregoing principles were incorporated in the Reclamation Act of 1902; the Reclamation Act of 1902 was incorporated into Public Law 87-483; the Secretary of the Interior may not, consistent with the Reclamation Act, knowingly release water to an individual or entity for a use which is not recognized as beneficial under state law, unless such use is specifically authorized by a congressional directive; no one is entitled to receive water for a use not recognized as beneficial under state law; § 5 of the 1902 Act, 43 U.S.C. s 431, prohibits the sale of water to tracts of land in excess of 160 acres; and originally the federal reclamation laws made provision only for water to be used in irrigation.

Further, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that with respect to contracts regarding federal reclamation projects: Congress intended state and local interests to acquire only storage space; rights and water users are not determined by contract, but by beneficial use; such contracts are for the delivery of water, and/or the allocation of storage space in reservoir; the United States owns the facilities and is entitled to compensation for the use of such facilities; the water rights associated with federal reclamation projects are the property of the land owners, wholly distinct from the property right of the government in the irrigation works; and the government was and remains simply a carrier and distributor of the water, with the right to receive the sums stipulated in the contracts as reimbursement for the cost

of construction and annual charges for operation and maintenance of the works.

Similarly, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that New Mexico law provides, or the courts have established, that: "beneficial use" requires maximum utilization; our entire state has only enough water to supply its most urgent needs; water conservation and preservation is of utmost importance; utilization of water for maximum benefits is a requirement second to none, not only for progress but for survival; maximum utilization is a fundamental requirement which prevents waste of water; no matter how early a person's priority of appropriation may be, he is not entitled to receive more water than is necessary for his actual use; an excessive diversion of water, through waste, cannot be regarded as a diversion to beneficial use within the meaning of the New Mexico Constitution, Article 16, §§ 1, 2 and 3, and § 72-1-2 NMSA 1978; water, in this state, is too scarce, and consequently too precious, to admit waste; whatever right one has, is subject to that established principle that his use shall not be injurious to the rights of others, or of the general public; an appropriator cannot take more water than he can beneficially use; an appropriator cannot take the water now with a mere hope of possible sales in the future, most of which sales are yet to materialize; an appropriator has a reasonable time to develop use for the water and to thus perfect its appropriation, however, such right is not unlimited; an appropriator cannot divert water which looks to future negotiation for various beneficial uses; the reasonable time for development, §§ 72-5-6 and 72-5-28(C) NMSA 1978, relates back to the date of showing an intent to appropriate by acquiring a permit; until an appropriator can apply the water it cannot be said to have a beneficial use, nor, for that matter, a completed appropriation; the Bureau cannot deliver the water to an appropriator under a plan which is nothing more than speculative with respect to the

beneficial uses; the requirements of state law govern the distribution of water from federal reclamation projects unless specifically overridden by congressional mandate or directives; and nothing in the statutes nor the legislative history with respect to the San Juan-Chama/NIIP Act (Public Law 87-483) indicates that Congress intended to authorize uses of water otherwise prohibited under state law.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the Settling Parties repeatedly make broad assertions that the water rights of the Navajo Settlement and Proposed Decree are either based on, or authorized by, permits issued by the State Engineer. However, there are no specific references in the Navajo Settlement indicating that the water rights to be adjudicated to the Navajo Nation are based upon permits issued by the State Engineer. The only specific references to State Engineer File No.s in the Proposed Decree relate to the Navajo Nation's rights pursuant to the Settlement Contract. The Settlement Contract relates only to the storage of water in, and the delivery of water from, federal storage reservoirs (Navajo Reservoir or Lake Nighthorse (ALP)).

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that apparently, no notices of intention, or applications for permit, were ever filed with the State Engineer with respect to the Navajo Nation's: Fruitland, Cambridge or Cudei irrigation projects; municipal uses; ground water uses; or tributary uses.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that no license to appropriate was ever issued by the State Engineer with respect to File No. 758 because the United States refused to comply with the State Engineer's requirements. In fact, the United States stated:

> "so far as the [Federal] Government is concerned, the issuance or non-issuance of your Certificate of Construction and Final License will have no effect on its paramount rights to divert or use the water, and the State or its officers cannot interfere in any way with such diversion or use."

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that there has been no water use for decades associated with File No.s 2472 (helium plant), and 2807 (uranium mill), 2875 (uranium mill).

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the permits associated with File No.s 758, 2472, 2807, and 2875 are to be cancelled by agreement pursuant to § 4.3.1 of the Navajo Settlement, and no water rights are to be adjudicated with respect to said File No.s.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the Notices of Intention with respect to File No.s 2847 (San Juan-Chama Project), 2848 (Hammond Project), 2849 (NIIP Project), 2873 (Navajo Reservoir evaporation), and 2883 (A-LP Project) were not submitted in accordance with New Mexico law, because said Notices of Intention were submitted by the State Engineer himself, rather than a proper officer of the United States (see § 72-5-33 NMSA 1978).

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that with respect to the issuance of permits regarding applications for permits to appropriate water, submitted to the New Mexico State Engineer, the New Mexico Courts have determined: any application for a permit must adequately comply with applicable statutes that govern the substance of the request; the OSE must abide by statutory requirements for its publication of the notice for a pending application; statutes limit the OSE's power to act on certain matters; subject matter jurisdiction depends on the class of questions that a decisionmaker has been empowered

by the constitution or a statute to hear and determine; for an application to fall within the general category of those the OSE has jurisdiction to consider, the application must be of a form and substance that comports with the Water Code's predicate requirements for the OSE to act; applications for appropriation must be in a form prescribed by the OSE and must contain those recitals required by statute; the application and the OSE's procedure must meet the statutory requirements for the OSE to have jurisdiction to grant the permit; in order for the OSE to authorize diversion and appropriation of water, the OSE must follow statutory procedures; the required steps to divert surface water are determined by the relevant statutes and must be followed by the OSE and applicant alike; §§ 72-5-1 and 72-5-24 are part of a framework that requires an applicant to describe proposed actions in detail, including the source and proposed disposition of the water and the potential effects of the proposed actions on other water users; the essence of these statutes is to require the disclosure of sufficient information to provide notice to interested parties and to allow the determination of likely impairment of others' water rights by any contemplated changes; the Water Code confers the power to review a use for possible impairment to others' water rights on the OSE, which, regardless of citation, must comply with statutes that set out the form for applications or notice of its contents; the OSE has subject matter jurisdiction to review an application so long as the application seeks permission to do something authorized by an applicable statute and comports with statutory and regulatory form requirements as set out in regulations promulgated under authority of the Water Code; subject matter jurisdiction may confer the power and authority to act within a permissible scope as delineated by statute; administrative bodies are creatures of statute and can act only on those matters which are within the scope of authority delegated to them; § 72-5-1 (setting out requirements to apply for

an appropriation of surface water to a new beneficial use) and § 72-5-4 (setting forth requirements for publication of notice upon filing an application to divert surface water) require the application to meet form requirements specifically delineating the nature and scope of the proposed action an applicant is undertaking with a specific eye toward its effect on other water users; whether a particular application is sufficiently complete to confer upon the OSE the power to act upon it depends on its purpose and compliance with the applicable statute requiring specific information to be included in any application seeking a permit of a particular nature; all applicants have the burden to fulfill the statutory requirements for completing an adequate application and notice of intent to divert, the OSE must then ascertain whether the statutory requirements were met; statutes govern what issues may be considered and how issues are raised and handled, thus, compliance of an application is judged with respect to all applicable statutes; a water permit provides the authority to pursue a water right specific to a place and a beneficial use; no use of water is permitted that is not a beneficial use; water in New Mexico belongs to the state, subject to acquisition by appropriation, the basis of which must be beneficial use; no one has a right to use or divert water except for beneficial use; it is the application to a beneficial use which gives the continuing right to divert and utilize the water; beneficial use is the basis, the measure, and the limit of the right to the use of water in New Mexico; the amount of water which has been applied to a beneficial use is the a measure of the quantity of the appropriation; this constitutional proposition declares the sole basis of the right to use water, which use is then subject to regulation by statute; the state regulates the appropriation or acquisition of the state's water for a beneficial use; for any water to be put to such a use, such use must be supported by an appropriation of water; § 72-5-1 requires anyone seeking to put surface water to a beneficial use

to request an appropriation to do so from the OSE; the taking or diversion of water from some natural stream, *in accordance with law*, with the intent to apply it to some beneficial use or purpose, and consummated by the actual application of all of the water to the use designed is an appropriation of the water; any diversion for a beneficial use must be accompanied by a right to the water acquired by the user's appropriation of the water to be used; an appropriator can take only such water as he can beneficially use; there can be no right to divert and, therefore, no right to use public water without applying it to a beneficial use; water rights are both established and exercised by beneficial use, which forms the basis, the measure, and the limit of the right to use of the water; a water right is a property right created by a person appropriating unappropriated water and applying it to a beneficial use; there must be an ultimate, actual beneficial use of the water resulting from the diversion; a diversion without applying the water thus diverted to a beneficial use is simply not permissible under the law; the rule that no one has a right to use or divert water except for beneficial use is clearly indicated by the framers of our constitution; "use" is something that occurs with water after it is diverted as a result of proper appropriation; an appropriation is nothing more than the right acquired by permit to divert water to a beneficial use; the right to use water is a possessory right which may be acquired by appropriation and diversion for a beneficial use; beneficial use is the basis of the right to use water at all; an applicant is misguided to believe that it may divert water for anything but a beneficial use; a beneficial use of water is a use of such water as may be necessary for some useful and beneficial purpose; appropriation is the act of taking water for a beneficial use, and the perfection of the appropriation, according to law, is the sole source of the right to use the water and the protection of the appropriator's right to continue its use; a right to apply water to a beneficial use springs

from appropriation for beneficial use; the right to use water is a possessory right which may be acquired by appropriation and diversion for a beneficial use; the application and its contents must specify sufficient information to provide notice to the OSE and all other potentially interested persons of the nature and purpose of the application; the notice requirements of applicable statutes must be observed; an application and the resulting permit are insufficient as a matter of law if applicant fails to request an appropriation of surface water to be diverted for a new beneficial use; the principle of limiting the use of the public's waters to what constitutes beneficial use is intended to promote the economical use of water by requiring definiteness and certainty in appropriating a finite and limited resource; water may be essential to various uses, but water rights must still be acquired by appropriation to beneficial use; actual diversion or application of water to the beneficial use must be preceded by the existence of a water right; any entity intending to appropriate surface water for a new beneficial use is required to do so by making an application to the OSE for a permit to appropriate, in the form required by the rules and regulations established by it; § 72-5-1 sets forth the requirements for any application to appropriate surface water; § 72-5-1 applies to new appropriations of native water and provides that anyone intending to acquire the right to the beneficial use of any waters, shall, before commencing any construction for such purposes, make an application to the OSE for a permit to appropriate, in the form required by the rules and regulations established by it; an applicant is required to state the amount of water and period or periods of annual use, and all other data necessary for the proper description and limitation of the right applied for, together with such information, maps, field notes, plans, and specifications as may be necessary to show the method of practicability of the construction and the ability of the applicant to complete the same; § 72-5-

1 further requires that all such maps, field notes, plans, and specifications, shall be made from actual surveys and measurements, and shall be duly filed with the OSE at the time of filing of formal application for permit to appropriate; § 72-5-1 requires that if a type of new beneficial use is contemplated, then it is the responsibility of the applicant to include a request for a permit to appropriate in the application; the OSE has no statutory authority to allow applicants to make a beneficial use or diversion of water that has not been requested; no use that is not beneficial is allowed by law; the OSE, as the steward of New Mexico's obligations under the Compact, must ensure that it approves only those applications that are not contrary to the conservation of water within the state and not detrimental to the public welfare of the state; the OSE has a positive duty to determine whether an application impairs existing water rights; compliance with compacts is always at the forefront of any permit assessment; not only would the issue concern public welfare of the state, but the obligation of the OSE in evaluating impairment or detriment to existing water rights naturally encompasses compliance with compacts; and if the OSE satisfied its duty to ensure that granting an application would not be detrimental to existing water rights, then there is no doubt that compact compliance would have to be part of the analysis.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that no permits were ever issued, and it appears that the State Engineer never intended to issue any permit, in accordance with New Mexico law, with respect to the Applications for Permit filed with respect to OSE File No.s 2848; 2847, 2849, 2873, & 2917 Combined; 2883; and 3215. With respect to all of said Applications, the State Engineer only "endorsed," rather than "approved" said Applications. Further, regarding all of said Applications: few plans were ever submitted; no notices were ever published; the public was given no opportunity to protest; no

hearings were held; no Proofs of Completion of works were ever submitted; no Proofs of Beneficial Use were ever submitted; much of such water was never put to beneficial use; most of the water that was put to beneficial use, was not used for decades after the Notices of Intention were filed; no inspections were ever made by the State Engineer; and no licenses to appropriate water were ever issued by the State Engineer. In fact, there was never any project, facilities, or proposed specific use at all associated with File No.s 2917 and 3215.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that certainly, the statutory procedures have never been followed with respect to such File No.s. In fact, the statutory procedures have been intentionally, completely disregarded with respect to said File No.s. Thus, there was never even the slightest attempt made by the State Engineer to comply with New Mexico law with respect to said Applications. However, the New Mexico Court of Appeals in *John Carangelo, Assessment Payers Association of the Middle Rio Grande Conservancy District, Amigos Bravos, and Rio Grande Restoration, Protestants-Appellants, v. Albuquerque-Bernalillo County Water Utility Authority, Applicant-Appellee, and New Mexico State Engineer, John R. D'Antonio, Jr., Respondent-Appellee*, Case No. 26,575 (NM Ct. App.) (November 28, 2011) held that the OSE *must* follow statutory procedures in order to authorize diversion and appropriation of water, or to even establish subject matter jurisdiction with respect to such Applications.

Therefore, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that according to *Carangelo*, there has never been an authorization of the diversion and appropriation of water associated with such File No.s in *accordance with the law*, and the State Engineer has never had subject matter jurisdiction with respect to such File No.s to

properly issue permits or licenses with respect to such File Nos. Accordingly, there has never been any valid water rights established with respect to such File No.s.

However, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that based on said File No.s, the State Engineer has considered the waters of the San Juan Basin to be fully appropriated. The result is that the State Engineer has denied any further applications to appropriate the waters of the San Juan Basin since such time, although only approximately one-half of the water, with respect to which New Mexico is entitled pursuant to the Colorado River Compact (1922) and the Upper Colorado River Basin Compact (1948), has ever been used. The result is that, for decades, New Mexico's unused share of such water has been simply flowing down the river for use by Arizona, California and Nevada.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the United States has no valid permits for the more than 1,550,000 af/y of water with respect to notices of intention or applications for permit filed with the New Mexico State Engineer regarding the waters of the San Juan Basin. No water right has ever vested with the United States with respect to said 1,550,000 af/y of water. Clearly, a party cannot sell or lease that which he does not own. Therefore, the United States cannot impart a valid water right on the Navajo Nation pursuant to any of the subject State Engineer File No.s.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that while the United States may be able to contract with the Navajo Nation for the storage or delivery of water, the subject File No.s clearly do not provide a basis for the establishment of a valid water right for the Navajo Nation.

Accordingly, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I

demonstrated that there have been no valid permits issued by the State Engineer with respect to any of the water rights or water uses contemplated by the Navajo Settlement or Proposed Decrees.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that § 72-5-33 NMSA 1978 does not provide that somehow New Mexico law is inapplicable with respect to the acquisition of water rights for federal reclamation projects. In fact, the courts have clearly and specifically held that the United States must comply with state laws regarding the acquisition of water rights for, and distribution of water from, federal reclamation projects.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that certainly, § 72-5-33 *does not say* that by simply filing plans within three years of a notice of intention that the subject waters are tied up forever, and unavailable for any use in New Mexico for any purpose, regardless of whether such reclamation project is ever built or whether such waters are ever put to beneficial use. Moreover, to any extent that either § 72-5-33 or § 72-9-4 are considered to allow the United States to acquire the right to water in New Mexico without beneficially using such water in a timely manner, said statutes are clearly unconstitutional as applied.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that to date, the issue of the control and administration of such waters plagues New Mexico. The United States apparently continues to take the position that the United States has control over most of the water in New Mexico such that such water can only be used by virtue of contracts with the United States. Unfortunately, the State Engineer either agrees with the United States on such matters, or is unbelievably slow in challenging the United States with respect to the acquisition

and control of such waters.

Pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the State Engineer has clearly taken the position for decades that no unappropriated water remains in the San Juan or Rio Grande River Basins, for appropriation and use by the citizens of New Mexico, based upon the "filings" submitted by, or on behalf of, the United States to the State Engineer. (Such "filings" regarding the waters of the San Juan Basin were submitted during the 1950s and 1960s, and such "filings" regarding the Rio Grande Basin were submitted in 1906 and 1908.) Since such "filings," the State Engineer has rejected, or discouraged the filing of, applications to appropriate water by other potential water users, and simply referred such other potential water users to the BOR, suggesting that they might be able to obtain the right to use water by virtue of contracts with the BOR. In that regard, it appears that the State Engineer has simply abdicated all control, with respect to the appropriation, distribution and use of New Mexico water, to the BOR.

Accordingly, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that the State Engineer appears to not comprehend his jurisdiction or authority with respect to New Mexico waters. The result, with respect to the orderly administration of the waters of New Mexico, is simply chaos. Certainly, the State Engineer demonstrates little, if any, interest in protecting existing water users, or preserving the use of water in New Mexico for use by New Mexico water users.

Therefore, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I demonstrated that neither federal law, state law, federal contracts, nor permits issued by the State Engineer to the United States, define, authorize, or establish any legitimate bases for, the water

rights to be awarded to the Navajo Nation pursuant to the Navajo Settlement or Proposed Decrees.

To date, the water rights of the Navajo Nation have never been properly established, and the determination of the water rights of the Navajo Nation is clearly within the jurisdiction of this Court.

a. Neither Public Law 87-483, nor State Engineer File No. 2849, provide any authority for the water rights to be awarded to the Navajo Nation for the NIIP Project.

Pursuant to the State's Memo re Settlement Motion, the State's only reference to the authorizations for the NIIP Project was that:[10]

> "The largest irrigation right is for NIIP, which has the existing legal right to irrigate 110,630 acres. *See* Act of Congress on June 13, 1962, Public Law 87-483 authorizing NIIP; State Engineer File No. 2849." State's Memo re Settlement Motion, pp. 34-35.

However, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I have already demonstrated that neither Public Law 87-483, nor State Engineer File No. 2849, provide any authority for the water rights to be awarded to the Navajo Nation for the NIIP Project, pursuant to the Navajo Settlement and Proposed Decree.

b. The Navajo Settlement and Proposed Decree would award water rights to the Navajo Nation for the Hogback and Fruitland Projects vastly in excess of their existing water uses.

The Navajo Settlement and Proposed Decree would award water rights to the Navajo

[10] Pursuant to the State's Memo re Settlement Motion, the State makes no mention of historic or existing uses for the NIIP Project.

Nation for the Hogback and Fruitland Projects in the following amounts:[11]

	Diversion Amount (af/y)	Diversion Rate (cfs)	Depletion Amount (af/y)	Decree Reference (¶)
Hogback-Cudei Irrigation Project ("Hogback")	48,550	221	21,280	3(e)
Fruitland-Cambridge Irrigation Project ("Fruitland")	18,180	100	7,970	3(f)
TOTAL	66,730	321	29,250	

Such amounts were intended to irrigate 8,830 acres for the Hogback-Cudei Project and 3,335 acres for the Fruitland-Cambridge Project. However, such amounts are vastly in excess of the existing acreages currently being cultivated on the subject Projects.

Regarding, the Hogback and Fruitland Projects, the State argues only that:

> "The core of the settlement is recognition of the Navajo Nation's historic and existing irrigation projects.
>
> * * *
>
> "The proposed water rights for the Hogback and Fruitland irrigation projects are based on the acreage within their existing boundaries. Navajo irrigation on these two projects has been going on for a century. The State's Technical Assessment, at 5-11, provides a detailed summary of the historic and existing uses of water by NIIP and the Hogback and Fruitland Projects. State's Memo re Settlement Motion, p. 34.

The TECHNICAL ASSESSMENT OF THE SAN JUAN RIVER BASIN IN NEW MEXICO NAVAJO NATION WATER RIGHTS SETTLEMENT AGREEMENT, prepared by John Whipple, Consultant to the State of New Mexico, Office of the State Engineer, dated September 6, 2012, filed with the Court on September 12, 2012 ("State's Technical Assessment"), provides:

> "1. Hogback-Cudei Irrigation Project.
>
> "a. Historic Water Use. .... Based on a review of BIA records, the maximum area historically irrigated on the Hogback and Cudei projects combined was about 6,327 acres in 1966 .... In 2002, the Cudei Project diversion was removed from the San Juan River, and the Cudei Project ditch system was connected to the Hogback Canal via a siphon constructed under the river. Field surveys conducted by the ISC since

[11] First, it should be noted that, other than by general reference to the *Treaty Between the United States of America, and the Navajo Tribe of Indians, June 1, 1868*, which does not mention water rights, the State's Memo re Settlement Motion makes no mention of how the water use associated with the Hogback and Fruitland Projects was authorized.

2003 indicate that the maximum acreage irrigated on the combined Hogback-Cudei Project in the recent past was about 3,892 acres in 2007.

* * *

"b. Currently Authorized Water Use. The 1993 BIA Crop Utilization Survey reported that the irrigable acreage for the Hogback and Cudei projects combined at that time amounted to about 8,829 acres, and the BIA has issued land use permits for farming on about 8,830 acres of land existing under ditch within the Hogback-Cudei Project area. Based on the irrigation of 8,830 acres under the Hogback-Cudei Project, the Navajo Nation could divert water at a maximum rate of about 221 cfs assuming a diversion rate of 1 cfs per 40 acres consistent with the per-acre diversion rates included in the 1938 Hydrographic Survey and the Echo Ditch Decree for most non-Indian ditches in the San Juan River Basin in New Mexico. Assuming that the Navajo Nation operates the Hogback Canal to divert water at the maximum diversion rate throughout the irrigation season, the annual diversion for irrigation uses under the project equates to about 93,808 acre-feet. The associated annual depletion by irrigation uses under the project would be about 25,577 acre-feet, on average.

* * *

"2. Fruitland-Cambridge Irrigation Project.

"a. Historic Water Use. Based on a review of BIA records, the maximum area historically irrigated on the Fruitland and Cambridge projects combined was about 3,120 acres in 1965. . . . Field surveys conducted by the ISC since 2003 indicate that the maximum acreage irrigated on the Fruitland-Cambridge Project in the recent past was about 2,031 acres in 2007.

* * *

b. Currently Authorized Water Use. The 1993 BIA Crop Utilization Survey reported that the irrigable acreage for the Fruitland Project at that time amounted to about 3,335 acres, and the BIA has issued land use permits for farming on about 3,335 acres of land existing under ditch within the Fruitland-Cambridge Project area. Based on historic use, the Navajo Nation diverts water at a maximum rate of about 100 cfs into the Fruitland Canal, which equates to an annual diversion for irrigation uses under the project of about 42,447 acre-feet assuming that the canal is operated to divert water at this rate throughout the irrigation season. The associated annual depletion by irrigation uses under the project would be about 9,293 acre-feet, on average. State's Technical Assessment, pp. 5-8.

The 1993 BIA Crop Utilization Survey was actually entitled "NAVAJO INDIAN RESERVATION HOGBACK & FRUITLAND IRRIGATION PROJECTS CROP AND UTILIZATION SURVEY", was prepared by United States Department of the Interior, Bureau of Indian Affairs, Shiprock Agency, Branch of Natural Resources, and was dated October 1993 ("1993 Survey"). The 1993 Survey is attached hereto as Exhibit 2.

The 1993 Survey actually provided that:

"**CONCLUSIONS**

"In reviewing the data the most conspicuous aspect is the alarming amount of acreage categorized as idle or abandoned. In Hogback this amounts to 6018 acres, or 73% of the total irrigated acreage. If the expired agricultural leases are excluded from the calculation, the amount of acres is reduced to 3082, representing 63% of the irrigated acreage.

"In Cudei 172 acres, 69% of the irrigated acreage, are idle or abandoned.

"In Fruitland 1139 acres, or 35% of the irrigated acreage, are categorized as idle or abandoned.

"To what cause these percentages are attributable is uncertain. Extant reports and correspondence by Bureau personnel in the 1950's and 1960's are replete with concerns over unutilized and under-utilized farms. The situation seems to be a recurring problem, rather than one unique to the 1990's.

"One major problem surfaced during both the field work and the calculation of acreage using the Branch's permit maps. Apparently a significant number of permittees have altered the boundaries of their farms without the permission of the Farm Board. Consequently many of the farms have configurations substantially different from the original surveys from which the permits were issued. Adding to this confusion is the realization that several areas are being farmed which have never been permitted." 1993 Survey, p. 3.[12]

Thus, the 1993 Survey stated that of the 8,286 "irrigated acres" of the Hogback Project's 6,018 acres (73%) were either idle or abandoned. That leaves only 2,268 acres producing crops. Similarly, of the 627 "irrigated acres" of the Cudei Project, 372 acres (69%) were either idle or abandoned, leaving only 172 acres producing crops. Lastly, of the 3,830 "irrigated acres" of the Fruitland Project, 1139 acres (35%) were either idle or abandoned, leaving only 2,197 acres producing crops.

Then, pursuant to the SENATE JOINT MEMORIAL 71, 47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006, INTRODUCED BY John Pinto, entitled "A JOINT MEMORIAL REQUESTING THE NEW MEXICO CONGRESSIONAL DELEGATION TO FULLY FUND THE COSTS OF RENOVATION OF THE UPPER FRUITLAND IRRIGATION PROJECT" (Attached as Exhibit 2 to Horner's Memo re Summary Judgment), Mr. Pinto indicated that the Upper Fruitland Irrigation Project was built in 1933 and subsequent years, and that of the original 3,675 acres of the Project only approximately 500 acres

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[12] The 1993 Survey described "idle lands" and "abandoned lands" as:
"Idle lands were those areas which were not planted in any identifiable crop. If a crop was planted, but had become so weed infested that it had little or no market value, that acreage was considered idle.

"Abandoned lands were fields which had not been cultivated for several consecutive seasons. Usually such fields were weed infested and characterized by the emergence of woody vegetation such as Chinese Elm and Russian Olive." 1993 Survey, p. 3.

remain under cultivation.

The Proposed Decree would establish water rights for the Navajo Nation of 48,5580 af/y with respect to the Hogback-Cudei Project, with a maximum diversion rate of 221 cfs to irrigate 8,830 acres of land and 18,180 af/y with respect to the Fruitland Project, with a maximum diversion rate of 100 cfs to irrigate 3,335 acres of land. The State argues that such water rights are based upon the historic and existing uses of such water. What the State somehow simply fails to mention, and Mr. Whipple does not make clear pursuant to the State's Technical Assessment, is just how much of the irrigated acreages of such Projects have been idled or abandoned. Clearly, the Navajo Nation's "existing" use of such water associated with such Projects, is no where near the amount of water set forth in the Proposed Decrees. Why should the Navajo Nation be awarded water rights so far in excess of its current uses, or even needs, of such water?

It should be kept in mind, that while the Proposed Decrees would award to the Navajo Nation water rights vastly in excess of its current uses of water, the State is utilizing the present adjudication suit to virtually eliminate that amount of water rights that were previously adjudicated, but are currently unused, by non-Indian water users. In that regard, the Navajo Settlement and Proposed Decrees are not fair, and are not in the public interest.

c. There is no authority or the Navajo Nation's existing non-Project DCMI uses of water.

Regarding water rights for the Navajo Nation's Domestic, Commercial, Municipal and (Light) Industrial ("DCMI") uses, pursuant to the State's Memo re Settlement Motion, the State argues that:

"the Proposed Decree would recognize historic, existing and previously authorized DCMI uses. *See* Technical Assessment, at 13-21. For example, water for the Navajo Nation under the ALP was authorized by the Colorado Ute Settlement Act Amendments of 2000 and by State Engineer File No. 2883. The only increased amount of water not based on an existing right or use of water is the 20,780 afy of depletion for municipal and domestic uses under the Navajo-Gallup Project. The quantity of water for the Navajo-Gallup Project, however, falls within the already existing authorized quantities under State Engineer File No. 2849 for storage and supply from Navajo Reservoir and could be granted by the United States to the Navajo Nation by federal contract, even if there were no settlement." State's Memo re Settlement Motion, p. 34.

Pursuant to the State's Technical Assessment, Mr. Whipple states:

"1. Non-Project DCMI Uses from the San Juan River System.

"a. Historic Water Use. Under present conditions, the physical capacity to divert water to, and treat water at, the Shiprock water treatment plant is limited, and the NTUA-Shiprock Agency meets much of its domestic water demands by purchasing water from the City of Farmington.[FN10] Based on water use reports filed with the OSE by the City of Farmington and Navajo Nation Department of Water Resources data, the NTUA-Shiprock Agency during 2005 purchased about 1,700 acre-feet of treated water from the City's water distribution system, and directly diverted from the San Juan River or Hogback Canal near Shiprock about 580 acre-feet of water for Navajo Nation domestic, commercial, municipal and light industrial (DCMI) uses in Navajo communities along the San Juan River corridor (for a combined total of about 2,280 acre-feet of surface water for DCMI uses in 2005). Assuming an average return flow rate from NTUA-Shiprock Agency DCMI uses along the San Juan River valley of about 60 percent of the water diverted by or delivered to the agency, the amount of depletion associated with these uses was about 912 acre-feet in 2005.

"[FN10] Diversions and depletions of treated water that the NTUA-Shiprock Agency has purchased from the City of Farmington historically have been supplied under the water rights of the City. In the future, it is anticipated that these uses will be met with the Navajo Nation's water rights.

"b. Currently Authorized Water Use. It was assumed for this report that the Navajo Nation's current authorization to divert and deplete water from the San Juan River for its DCMI demands exclusive of the ALP is limited by its existing diversion and water treatment capabilities as reflected by historic NTUA-Shiprock diversions. This amounts to 580 acre-feet per year of diversion and depletion.

"c. Proposed Water Rights. The Proposed Decree includes federal reserved water rights for the Navajo Nation to divert up to 2,600 acre-feet and deplete up to 1,300 acre-feet of water from the San Juan River each year for DCMI uses, exclusive of the ALP and the NGWSP. These amounts are based on: (1) the sum of the amounts of historic DCMI diversions by the NTUA-Shiprock Agency plus water purchases from the City of Farmington by the agency of about 2,280 acre-feet in 2005; (2) historic heavy industrial uses made at the Navajo (Shiprock) Helium Plant under License No. 2472 (for an annual diversion of about 1,450 acre-feet) and at the Navajo (Shiprock) Mill under License No. 2807 & 2875 (for an annual diversion of 1,200 acre-feet), which licenses are to be cancelled under the Settlement Agreement; and (3) an assumed return flow of 50 percent consistent with return flow percentages assumed for future DCMI uses under the ALP. The proposed maximum diversion rate for these DCMI uses is 5.0 cfs." State's Technical Assessment, p. 13.

From the foregoing, it is apparent that there exists no authority for the Navajo Nation's current non-Project DCMI uses from the San Juan River System, other than any authority the City of Farmington may have for the water the City provides the Navajo Nation. Pursuant to

Horner's Brief re Federal Law, Permits and Contracts, I have previously demonstrated that the above referenced State Engineer permits for the Helium Plant and Uranium Mill (Permits 2472, 2807, and 2875) were not issued to the Navajo Nation, have not been used for decades, and have never been transferred to any other places or purposes of use. Further, and as indicated above, pursuant to the Navajo Settlement, the Navajo Nation has agreed to cancel such permits.

Therefore, while the State's Technical Assessment describes how much water the Navajo Nation has been using for DCMI purposes, the State has not shown the Navajo Nation's existing authority for such use.

d. There is no authority for the water rights associated with the Navajo Nation's DCMI Projects, and such water has never been used before.

Pursuant to the State's Memo re Settlement Motion, the State argues that:

"the Proposed Decree would recognize historic, existing and previously authorized DCMI uses. *See* Technical Assessment, at 13-21. For example, water for the Navajo Nation under the ALP was authorized by the Colorado Ute Settlement Act Amendments of 2000 and by State Engineer File No. 2883." State's Memo re Settlement Motion, p. 34.

Pursuant to the Technical Assessment, Mr. Whipple states:

"2. Animas-La Plata Project.

"a. Currently Authorized Water Use. The ALP FSEIS included for the Navajo Nation's uses under the project an annual diversion of 4,680 acre-feet from the Animas River with an associated annual depletion of 2,340 acre-feet from the San Juan River stream system. The "Colorado Ute Settlement Act Amendments of 2000" (114 Stat. 2763A-258; Public Law 106-554, Appendix D, Title III) authorized construction of the ALP and the Navajo Nation Municipal Pipeline (NNMP), and made an allocation of project water to the Navajo Nation in the amount of 2,340 acre-feet per annum of depletion. The ALP pump-storage facilities (namely, the Durango Pumping Plant and Lake Nighthorse in Colorado) were completed in 2010, and the initial fill of Lake Nighthorse was completed in 2011. Construction of the NNMP to convey the Navajo Nation's ALP water along the San Juan River corridor to help meet its DCMI water demands is scheduled to be completed in 2012. The Navajo Nation has filed application with the OSE for a permit to divert its ALP allocation from the Animas River through the City of Farmington's diversion works and water treatment plant for ultimate delivery to the Navajo Nation through the NNMP.

"b. Proposed Water Rights. Based on the Navajo Nation's authorized ALP water allocation, the Proposed Decree includes federal reserved water rights for the Navajo Nation to divert up to 4,680 acre-feet of water

from the Animas River each year and deplete up to 2,340 acre-feet for its DCMI uses under the ALP. Water deliveries for the Navajo Nation's uses under the ALP are subject to sharing of shortages in the ALP water supply with other ALP supply water contractors as provided by the Animas-La Plata Project Compact. Also, the Proposed Decree provides that the Navajo Nation's 1868 priority reserved water rights for its uses under the ALP are subordinated to its Settlement Contract rights based on the rights held by the United States under OSE File No. 2883, with a state law priority date of May 1, 1956. The proposed maximum diversion rate for the Navajo Nation's uses under the ALP is 12.9 cfs based on the capacity of the NNMP.

"3. Navajo-Gallup Water Supply Project.

"a. Project Description. The NGWSP is the only new water use authorization provided by the Settlement Agreement and Settlement Act. . . . The Settlement Act in 2009 authorized the NGWSP, including allocations of water from the NGWSP for the Navajo Nation in a total amount of 22,650 acre-feet of diversion annually for its DCMI uses in New Mexico with an associated depletion of 20,780 acre-feet from the San Juan River system, and approved a Navajo Reservoir water supply contract for the Navajo Nation's uses in New Mexico under the NIIP and the NGWSP.[Fn11] The USBR has completed National Environmental Policy Act and ESA section 7 consultation compliance activities for the NGWSP and the final design criteria preparatory to project construction, and it held a groundbreaking ceremony for the project on June 2, 2012. Project construction is expected to be completed in 2024. Because most of the authorized NGWSP diversions will be made near Kirtland below the confluence of the Animas and San Juan rivers, inflows to the San Juan River below Navajo Dam that may be available for diversion by the project with a 1968 priority date under OSE File No. 3215 could supply substantial portions of the project diversion demand during many months of the year, thus capturing water that otherwise would flow out of New Mexico unused, and resulting in conservation of water in storage in Navajo Reservoir.

> "[FN11] The pre-existing Navajo Reservoir water supply contract for the delivery of an average of 508,000 acre-feet per year to the NIIP was set to expire in 2016 unless extended, and the Settlement Contract incorporates the Navajo Nation's water allocations from the Navajo Reservoir supply for the NIIP and the NGWSP and the Navajo Nation's water allocation from the ALP.

"b. Proposed Water Rights. The Proposed Decree includes federal reserved water rights for the Navajo Nation to divert up to 22,650 acre-feet and deplete up to 20,780 acre-feet of water each year from the San Juan River (at Navajo Reservoir or at Kirtland combined) for its future DCMI uses in New Mexico under the NGWSP.[FN12] . . . . Also, the Proposed Decree provides that the Navajo Nation's 1868 priority reserved water rights for its uses under the NGWSP are subordinated to its Settlement Contract rights based on the rights held by the United States under OSE File No. 2849 for water originating above Navajo Reservoir, with a state law priority date of June 17, 1955, and under OSE File No. 3215 for water originating below Navajo Dam, with a state law priority date of December 16, 1968. The proposed maximum diversion rate for the Navajo Nation's uses in New Mexico under the NGWSP is a total of 41 cfs for both points of diversion combined.

> "[Fn12] At full project development, it is anticipated that about 3,800 acre-feet will be diverted at Navajo Reservoir through the existing NIIP canal intake and about 18,850 acre-feet will be diverted at the existing Public Service Company of New Mexico's San Juan Generating Station diversion dam.

Technical Assessment, pp. 13-15.

The Colorado Ute Settlement Act Amendments of 2000 does not authorize or establish water rights for the Navajo Nation associated with the Animas-La Plata Project. Rather, the

Colorado Ute Settlement Act Amendments of 2000 simply provides for the delivery of water, and the allocation of storage space in Lake Nighthorse. See Public Law 106-554, Title III, Sec. 302 (a)(1)(A)(ii), 114 Stat. 2763A-261. In fact, Sec. 303 Miscellaneous, of said Public Law 106-554, Title III, 114 Stat. 2763A-263, specifically provides:

> "PROTECTION OF NAVAJO WATER CLAIMS.--Nothing in this Act, including the permit assignment authorized by subsection (a), shall be construed to quantify or otherwise adversely affect the water rights and the claims of entitlement to water of the Navajo Nation." Emphasis added.

Further, pursuant to Horner's Brief re Federal Law, Permits and Contracts, I have demonstrated that there is no authority for the water rights associated with the Navajo Nation's Animas-La Plata Project ("ALP") or the Navajo-Gallup Water Supply Project ("NGWSP") (DCMI Projects), and the Navajo Nation has never before used any of such water.

e. The Navajo Nation has no existing water rights for heavy industrial uses.

Pursuant to the State's Memo re Settlement Motion, the State argues that:

> "Finally, the Navajo Nation currently has water rights for 11,850 afy diversion and 9,230 afy depletion for heavy industrial purposes, but the Proposed Decrees include only 86 afy for them because the Navajo Nation is agreeing to cancel State Engineer permits and licenses and to supply industrial uses from other rights described in the Proposed Decree. *See* Settlement Agreement, Paragraph 4.3.1." State's Memo re Settlement Motion, p. 39.

I have found no place where either the State or Mr. Whipple provide any basis for the State's argument that "the Navajo Nation currently has water rights for 11,850 afy diversion and 9,230 afy depletion for heavy industrial purposes".

Pursuant to Paragraph 4.3.1 of the Navajo Settlement, the OSE permits associated with File No.s 758, 2472, 2807, and 2875 are to be cancelled, and no water rights are to be adjudicated with respect to said File No.s. However, Permit 758 was for the Hogback Canal (irrigation - a license was never issued by the State Engineer). Permit 2472 was issued to the U.S., D.O.I.,

Bureau of Mines, for a helium plant that has not been used for decades. Permits 2807 and 2875 were issued to Kerr-McGee Oil Industries, Inc., for a uranium mill that has not been used for decades. Permit 2472 was for 2 second-feet (2 cfs flowing for one year is equal to 1,448 acre-feet). Permit 2807 was for 500 af/y, and Permit 2875 was for 700 af/y. Therefore, the combined total of such "heavy Industrial" uses would have been 2,648 af/y (1,448 + 500 + 700) (none of which were ever used by the Navajo Nation, and all of which are to be cancelled pursuant to § 4.3.1 of the Navajo Settlement).

3. The water rights of the Navajo Settlement and Proposed Decrees certainly do not "fit within the Navajo Nation's current already existing water rights."

Pursuant to the State's Memo re Settlement Motion, the State argues that:

> "all of the Navajo Nation's water rights in the Proposed Decrees, including for the Navajo-Gallup Project, fit within the Navajo Nation's current water rights . . . ." State's Memo re Settlement Motion, p. 35.

However, as demonstrated pursuant to Horner's Motion re Federal Law, Permits and Contracts, the Navajo Nation has absolutely no current or existing water rights with respect to the waters of the San Juan Basin in the State of New Mexico. In fact, the entire point of the present expedited *inter se* proceeding is to establish for the first time the water rights of the Navajo Nation to the waters of the San Juan Basin in the State of New Mexico. Therefore, the water rights of the Navajo Settlement and Proposed Decrees certainly do not "fit within the Navajo Nation's current already existing water rights."

4. The Navajo Nation is simply not "entitled" to the water rights of the Navajo Settlement and Proposed Decrees, and the Settling Parties cannot meet their burden of proving that "there is a reasonable basis to conclude that the Settlement Agreement provides for less than the potential claims that

could be secured at trial".

In an effort to argue that the water rights of the Navajo Settlement and Proposed Decrees are less than could be secured at trial, the State argues that:

> "It is difficult to know the quantity of water rights that the Navajo Nation could secure at trial without actually litigating the claims. Nonetheless, the water rights stated in the Proposed Decrees are substantially less than the amounts claimed by the US Claims or the NRCE Report. More significant to the State, the settlement water rights are less than the already-existing rights of the Navajo Nation. Absent settlement, the State believes the Navajo Nation could secure at trial the amount of its current right at a minimum. On top of that, the Court could decree additional future uses under the *Winters* Doctrine. But no matter how much additional *Winters* rights the Court might recognize, the settlement rights are less than the minimum that would be secured at trial." State's Memo re Settlement Motion, pp. 41-42.

Specifically, the State compares the water rights of the Navajo Settlement and Proposed Decrees to the "U.S. Claims", the "NRCE Report", and the Navajo Nation's "Current Right". (See, State's Memo re Settlement Motion, pp. 39-42.) However, as demonstrated herein above, the Navajo Nation has no "current water rights," and the NRCE Report has never been released to the non-Settling Parties, or the public in general.

THE UNITED STATES' STATEMENT OF CLAIMS OF WATER RIGHTS IN THE NEW MEXICO SAN JUAN RIVER BASIN ON BEHALF OF THE NAVAJO NATION, was filed with the Court on January 3, 2011 ("U.S. Claims"). The U.S. Claims, represented simply a trumped up statement of water rights claims for the Navajo Nation which the Settling Parties intended to use as a scare tactic to convince other water users that they should support the Navajo Settlement, or the Navajo Nation would simply come in, pursuant to the U.S. Claims, and take all of the water in the San Juan Basin in New Mexico.

Further, the Settling Parties intended to use the U.S. Claims as the basis for their argument that the Navajo Settlement was "fair and reasonable." Specifically, pursuant to the SETTLING PARTIES' SUPPLEMENTAL BRIEF [re Legal Standards] filed in the present matter on January 3, 2012 ("SP Supplemental Brief"), the Settling Parties proposed to meet their

burden by showing that:

> "that the water rights secured under the Proposed Decrees are significantly less than the potential claims of the Navajo Nation, both in quantity and priority". SP Supplemental Brief, p. 7.

Since the U.S. Claims had already been filed (January 3, 2011), the Settling Parties were in essence proposing that they had already met such burden; and that the resolution of the Court's ultimate question, whether the Navajo Settlement and Proposed Decrees were fair and reasonable, was a foregone conclusion (simply by virtue of the filing of the U.S. Claims, because the water rights of the Navajo Settlement and Proposed Decrees were significantly less that the water rights of the U.S. Claims).

Ultimately, the Court rejected the Settling Parties' argument that they had met their burden by filing the U.S. Claims, and established that the Settling Parties had the burden to prove (among other things) that "there is a reasonable basis to conclude that the Settlement Agreement provides for less than the potential claims that could be secured at trial". (See AMENDED ORDER ESTABLISHING THE LEGAL STANDARDS FOR EVALUATING THE PROPOSED DECREES AND RESPECTIVE BURDENS OF PROOF, entered in the present matter on April 19, 2012 ("Order re Legal Standards".))

It appears that pursuant to the Settling Parties' burden to prove that "there is a reasonable basis to conclude that the Settlement Agreement provides for less than the potential claims that could be secured at trial", the Court was in essence requiring the Settling Parties to prove that the Navajo Nation is somehow "entitled" to the water rights of the Navajo Settlement and Proposed Decrees. However, as demonstrated pursuant to Horner's Motion re Reserved Rights, Horner's Motion re Federal Law, Permits and Contracts, and Horner's Motion for Summary Judgment, the Settling Parties cannot prove that the Navajo Nation is "entitled" to the water rights of the

Navajo Settlement and Proposed Decrees, because, the Navajo Nation is simply not "entitled" to such water rights. Therefore, the Settling Parties cannot meet their burden of proving that "there is a reasonable basis to conclude that the Settlement Agreement provides for less than the potential claims that could be secured at trial".

Accordingly, the Settling Parties repeatedly attempt to show that the Navajo Settlement and Proposed Decrees are fair and reasonable, by arguing that if the Settlement Motion is rejected, pursuant to the U.S. Claims, the Navajo Nation and United States will claim all of the water in the San Juan Basin for the benefit of the Navajo Nation. However, as I have shown, the Settling Parties will never be able to show at trial, or anywhere else, that the Navajo Nation is entitled to the water rights of even the Navajo Settlement and Proposed Decrees, let alone all of the water of the U.S. Claims, or all of the water in the San Juan Basin.

D. The Navajo Settlement is not consistent with public policy and applicable law.

As I have demonstrated herein, as well as, pursuant to Horner's Motion re Federal Reserved Rights, Horner's Motion re Federal Law, Permits and Contracts and Horner's Motion for Summary Judgment, the Navajo Settlement and Proposed Decrees are not consistent with the law. Further, the State negotiated the Navajo Settlement and proposed Decree, but it is third parties that bear the adverse effects. The Settling Parties attempt to accomplish by negotiated settlement what they cannot accomplish according to law. That is, the Settling Parties apparently believe that they are free to violate the law in any manner they choose, so long as the Settling Parties *agree* to the terms of the settlement (regardless of adverse affects on third parties). There is no authority for the decree of hundreds of thousands of acre-feet of water rights to a claimant

without any showing of application of such water to beneficial use. There is simply no authority (state or federal) for granting water rights to an Indian Tribe whose only purpose for such water is to market such water off of the reservation. The execution of the Navajo Settlement would cause irreparable harm to all other water users in the San Juan Basin. Certain of the Administration provisions of the Navajo Settlement are illegal. The Navajo Settlement is illegal, collusive, not supported by consideration, not consistent with the law or public policy, and should not be approved by the Court. The Settling Parties have acknowledged that a settlement should only be approved by the court when the agreement is fairly secured, is without fraud, misrepresentation, or overreaching, and when it is supported by consideration; and a settlement should not be approved by the court if it is illegal, a product of collusion, or against public policy. The court's authority to adopt a consent decree comes only from the statute which the decree is intended to enforce, not from the parties' consent to the decree. The parties cannot, by giving each other consideration, purchase from a court a continuing injunction, and the court is free to reject agreed-upon terms as not in furtherance of statutory objectives. The Navajo Settlement is not even supported by consideration. The Navajo Settlement is against the public interest.

The **only** consideration the Settling Parties can argue that the State has received pursuant to the Navajo Settlement is that it reduces the risk and expense of protracted litigation. In reality, the State has managed to reduce its risk of protracted litigation, associated with the issues related to the water rights of the Navajo Nation, by simply shifting the burden of the litigation of such issues from the State, to adversely affected third parties - me, in particular. That is, the State Engineer has failed and refused his duty to protect the public, and shifted the burden of

protecting the public to the public itself. In fact, the State has vastly increased the burden placed on the public by agreeing to the Navajo Settlement, and siding with the Navajo Nation. Accordingly, the State has greatly increased the vast governmental resources arrayed against the public.

The taxpaying public has paid for (or will pay for): the construction and operation of Navajo Dam; the construction and operation of the NIIP facilities; the construction and operation of the Animas-La Plata facilities; the construction and operation of the NGWSP facilities; the construction of the Navajo ditches; as well as the salaries of the OSE, BOR, BIA, and the government officials (and contracts for the private consultants) promoting the Navajo Settlement. Now, the taxpaying public must once again dig into their own pockets to fight their own tax dollars, as the public tries to protect itself - from its own government. The present situation is only amusing to government bureaucrats who relish the thought of abusing their power by trampling on the rights of those they are obligated to protect.

However, § 10-16-3 NMSA 1978 **[Ethical principles of public service . . . .]** provides:

> "A. A legislator, public officer or employee shall treat his government position as a public trust. He shall use the powers and resources of public office only to advance the public interest . . . .
> "B. A legislator, public officer or employee shall conduct himself in a manner that justifies the confidence placed in him by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service."

In *Carangelo*, the New Mexico Court of Appeals stated:

> "The OSE, as the steward of New Mexico's obligations under the Compact, must ensure that it approves only those applications that are "not contrary to the conservation of water within the state and . . . not detrimental to the public welfare of the state[.]" Section 72-5-6; *see Montgomery,* 2007-NMSC-002, ¶ 15 (discussing rules promulgated by the OSE to ensure compliance with the Compact); *Heine v. Reynolds,* 69 N.M. 398, 401, 367 P.2d 708, 710 (1962) (holding that the OSE has a positive duty to determine whether an application impairs existing water rights)." *Carangelo,* ¶ 89.

In other words, pursuant to *Carangelo* and *Heine*, the OSE has a positive duty to protect

the public interest. In reply to this Response,[13] the Settling Parties may argue that *Carangelo* and *Heine* specifically stated that "the OSE has a positive duty to determine whether an *application* [to appropriate water or transfer water rights] impairs existing water rights." The Settling Parties may argue that *Carangelo* and *Heine* do not address the somewhat broader concept that "the OSE has a positive duty to protect the public interest," in particular, in the context of negotiated settlements rather than "applications." Such a position by the Settling Parties would be consistent with their total disregard for the law, as I have demonstrated herein, as well as, pursuant to Horner's Motion re Federal Reserved Rights, Horner's Motion re Federal Law, Permits and Contracts and Horner's Motion for Summary Judgment.

In fact, the entire purpose of such negotiated settlements appears to be just that, that is, an exercise in avoiding the law associated with applications, or more generally, in simply doing whatever they want regardless of the law, and putting the burden on adversely affected third parties to stop them. In order to oppose such a negotiated settlement, any objector needs access to enormous resources. All the Settling Parties need is the signature of the judge, which would normally be virtually assured (the law to the contrary notwithstanding) in the absence of, and occasionally in spite of, monumental efforts by objectors.

In that regard, negotiated settlements only tend to violate the law. If what the applicant wanted to do was legal, and did not adversely affect third parties, the OSE application process would be much simpler, easier, quicker and less expensive for all involved.

Shifting the burden of protecting existing water users from the State Engineer to the adversely affected water users is not advancing, or consistent with, the public interest. Similarly,

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[13] I address this here because I will not have the opportunity later to respond to their reply.

agreeing to the Navajo Settlement, that so adversely affects other water users in the Basin is not advancing, or consistent with, the public interest.

1. The 2007 Hydrologic Determination found enough water available for the Navajo Settlement simply by manipulating the numbers.

One argument the State makes under this section needs to be specifically addressed. That is, the State argues that:

> "The settlement acquiesces to the State of New Mexico's obligations and water use constraints under the Upper Colorado River Basin Compact. In particular, the Navajo Nation agrees to accept quantities that fit within the amount of consumptive use available for development within the state's apportionment. As shown in the 2007 Hydrologic Determination, the settlement successfully integrates the Navajo Nation's claims within New Mexico's apportionment without displacing other existing or authorized water uses." State's Memo re Settlement Motion, p. 43.

As demonstrated pursuant to Horner's Brief re Federal Law, Permits an Contracts, when the 1988 Hydrologic Determination is adjusted for CRSP evaporation, New Mexico's share would be 611,000 af/y. The 1988 Hydrologic Determination was used for the purpose of establishing that there was enough water available within the San Juan Basin to support the PARTIAL FINAL JUDGMENT AND DECREE OF THE WATER RIGHTS OF THE JICARILLA APACHE TRIBE, entered in the present matter on February 24, 1999 ("Jicarilla Decree"). The Jicarillas were awarded 40,000 af/y of diversion, or 32,000 af/y of depletion, whichever is less, of reserved rights for future use, with a priority date of September 21, 1880, from the San Juan Basin, pursuant to ¶ 2 of said Decree. (Pursuant to ¶ 3 of said Decree, such priority date was subordinated to a June 17, 1955 date, based upon a contract with the United States for water stored in Navajo Reservoir.)

Actually, the 1988 Hydrologic Determination showed that there was not enough water available in the San Juan Basin to accommodate said water rights for the Jicarilla Apache Tribe.

In fact, the 1988 Hydrologic Determination showed New Mexico exceeding its Compact share by as much as 39,500 af/y of depletion by as early as the year 2000, and by as much as 57,500 af/y by the year 2020. Accordingly, the 1988 Hydrologic Determination incorporated the concept of a buy-out of 11,000 af/y depletion of private water rights from the San Juan Basin. (I understand that would in essence involve the United States purchasing such existing private water rights, and retiring such water rights, to make room for the water rights of the Jicarilla Decree.)

Then, comes the Navajo Settlement. The Navajo Settlement involved 20,780 af/y depletions of "new" water for the NGWSP Project. The 1988 Hydrologic Determination showed that such amount of water was simply not available. They needed a new hydrologic determination.

Then, comes the 2007 Hydrologic Determination. The 2007 Hydrologic Determination magically found 642,000 af/y of water was available in the San Juan Basin, that is, an increase of 31,000 af/y (642,000 - 611,000 af/y). When one drills down into the 2007 Hydrologic Determination, one finds that the "magic" comes from the concept that "Less is More." That is, the 2007 Hydrologic Determination determined that because of the drought, and higher water usage, the water levels of the reservoirs were lower, and the water surface area of the reservoirs was less, and therefore, the evaporation losses were significantly less. Pursuant to the 2007 Hydrologic Determination, since the evaporation losses were less, the BOR reasoned there was more water available for use.[14] [15]

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[14] Extrapolating the BOR's reasoning, the amount of water available for use would be maximized by removing all of the dams within the Colorado River Basin, and eliminating all of the reservoirs, and the approximately 2 million af/y of evaporation associated therewith.

[15] Also, the 2007 Hydrologic Determination apparently considered that: the Animas-La Plata Project was downsized from 34,000 af/y of depletion to 13,600 af/y; that the 16,200 af/y PNM contract with the United States was converted to a subcontract with the Jicarillas; and a United States contract with Utah International (BHP) for

Voila, the 2007 Hydrologic Determination not only found enough water for the NGWSP Project, but also apparently enough water, that the United States would not have to buy-out the 11,000 af/y of private water rights required pursuant to the 1988 Hydrologic Determination. Just a little sleight of hand, or "fun with numbers."

Conversely, one of these days, when we get more rain, and the reservoir levels rise, the additional water the 2007 Hydrologic Determination found available will disappear, and the water rights to be awarded to the Navajo Nation pursuant to the Navajo Settlement and Proposed Decrees (as well as the 32,000 af/y for the Jicarillas) will no longer fit within the amount of water available for the San Juan Basin, pursuant to the BOR's methods of calculating water availability. (Should we pray for drought???)

Of course, perhaps such a calculated decrease in water availability can be avoided by simply never again doing another hydrologic determination, such that the 2007 Hydrologic Determination stands as the last hydrologic determination ever made in the Upper Colorado River Basin. If such a hydrologic determination is made in the future, and the San Juan Basin in New Mexico is required to reduce its use of water, it would probably not be the Navajo Nation that would be cutoff, with all of its water rights having an 1868 priority date.

III. Incorporation by reference of Horner's Response to Joint Memo re Settlement Motion.

The arguments made by the State pursuant to the State's Memo re Settlement Motion are very similar in many respects to the arguments made by the Navajo Nation and the United States

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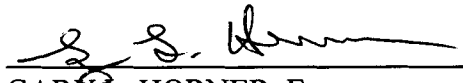
35,000 af/y was eliminated.

pursuant to their JOINT MEMORANDUM OF THE NAVAJO NATION AND THE UNITED STATES IN SUPPORT OF SETTLEMENT MOTION FOR ENTRY OF PARTIAL FINAL DECREES, which was filed in the present matter on April 15, 2013 ("Joint Memo re Settlement Motion"). To a certain extent, I have addressed different points in my Response to the Joint Memo re Settlement Motion. Therefore, I hereby incorporate by reference herein GARY L. HORNER'S RESPONSE TO THE JOINT MEMORANDUM OF THE NAVAJO NATION AND THE UNITED STATES IN SUPPORT OF THE SETTLEMENT MOTION ("Horner's Response to Joint Memo re Settlement Motion"), which will be filed concurrently herewith.

IV. Conclusion.

For the foregoing reasons, the Settlement Motion should be denied.

Respectfully, submitted by:



May 10, 2013
Date

GARY L. HORNER, Esq.,
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

PROOF OF SERVICE BY ELECTRONIC TRANSMISSION

I HEREBY CERTIFY - in accordance with the ORDER MANDATING ALTERNATIVE METHOD FOR SERVICE OF ORDERS, MOTIONS, NOTICES AND OTHER COURT PAPERS, entered in the present matter on September 28, 2011 by the Honorable James Wechsler, Presiding Judge - that a true copy of the foregoing was served on the parties and Claimants in the present matter, by attaching a copy of said document to an email sent to the

following email list server(s) maintained by the Court, this 10th day of May, 2013:

wrnavajointerse@nmcourts.gov

Further, pursuant to the Court's CORRECTED ORDER SUMMARIZING DISCOVERY ACTIVITIES DISCUSSED AT THE NOVEMBER 6, 2012 DISCOVERY CONFERENCE, entered in the present matter on November 19, 2012, that a true copy of the foregoing document was emailed to the following individuals, this 10th day of May, 2013.

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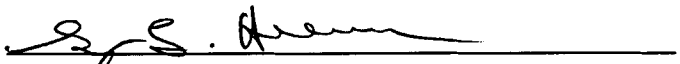

GARY L. HORNER

Exhibit 1

Attached to:
GARY L. HORNER'S RESPONSE TO THE
STATE OF NEW MEXICO'S MEMORANDUM IN SUPPORT OF SETTLEMENT
MOTION FOR ENTRY OF PARTIAL FINAL DECREES
Filed May 10, 2013

APPENDIX D

STUDY OF THE EFFECTS OF THE PROVISIONS OF
SUBPARAGRAPHS 9.1 AND 9.2 OF THE SETTLEMENT AGREEMENT
ASSUMING HISTORIC HYDROLOGY FOR THE
AVAILABLE PERIOD OF RECORD 1956-2003

Annual Summary of Amounts of Water Released from Navajo Reservoir Storage to Provide a Minimum Direct Flow of 225 cfs as per Subparagraph 9.1 of the Agreement and to Meet the Alternate Water Source Provisions for Navajo Nation San Juan River Diversions, including the Fruitland and Hogback Irrigation Projects, as per Subparagraph 9.2 of the Agreement

Study of the Effects of the Provisions of Subparagraphs 9.1 and 9.2 of the Settlement Agreement Assuming Historic Hydrology for the Available Period of Record 1956-2003

Annual Summary of Amounts of Water Released from Navajo Reservoir Storage to Provide a Minimum Direct Flow of 225 cfs as per Subparagraph 9.1 of the Agreement and to Meet the Alternate Water Source Provisions for Navajo Nation San Juan River Diversions, including the Fruitland and Hogback Irrigation Projects, as per Subparagraph 9.2 of the Agreement

Year	Modeled May 31 Navajo Reservoir Storage (1) (af)	Release from Storage to Maintain 225 cfs Minimum Direct Flow (af)	Release from Storage for Alternate Water Source Demands for Fruitland and Hogback (2) (af)	Ten-year Running Average of Releases per Alternate Water Source Provisions (af)	Depletion of Release from Storage for Alternate Water Source Demands for Fruitland and Hogback Projects (3) (af)	Ten-year Running Average of Depletions per Alternate Water Source Provisions (af)	Shortage to Direct-Flow Uses Not Met by Alternate Water Source Provisions (4) (af)	Period of Shortage to Direct-Flow Uses (dates)
1956	944,200	0	12,000		5,184		19,864	9/11-10/31
1957	891,700	0	0		0		0	
1958	1,685,700	0	222		96		0	
1959	1,388,300	690	12,000		5,184		7,109	9/12-9/30
1960	1,377,700	0	4,979		2,151		0	
1961	1,269,500	0	212		92		0	
1962	1,440,500	0	3,856		1,665		0	
1963	1,424,400	0	2,383		1,029		0	
1964	1,173,100	0	726		314		0	
1965	1,145,600	0	0	3,638	0	1,571	0	
1966	1,670,900	0	683	2,506	295	1,083	0	
1967	1,360,200	0	0	2,506	0	1,083	0	
1968	1,261,300	0	10	2,485	4	1,073	0	
1969	1,393,300	0	0	1,285	0	555	0	
1970	1,481,900	0	113	798	49	345	0	
1971	1,508,000	0	1,210	896	523	388	0	
1972	1,372,200	0	9,025	1,415	3,899	611	0	
1973	1,374,000	0	0	1,177	0	508	0	
1974	1,581,500	0	10,179	2,122	4,397	917	0	
1975	1,325,300	0	0	2,122	0	917	0	
1976	1,530,600	0	0	2,054	0	887	0	
1977	1,188,900	216	10,203	3,074	4,408	1,328	0	
1978	1,085,000	0	7,560	3,829	3,268	1,654	0	
1979	1,204,500	0	0	3,829	0	1,654	0	
1980	1,451,900	0	0	3,818	0	1,649	0	
1981	1,432,900	0	651	3,762	281	1,625	0	
1982	1,502,800	0	0	2,859	0	1,235	0	
1983	1,468,100	0	0	2,859	0	1,235	0	
1984	1,664,300	0	0	1,841	0	795	0	
1985	1,567,400	0	0	1,841	0	795	0	
1986	1,429,600	0	0	1,841	0	795	0	
1987	1,571,400	0	0	821	0	355	0	
1988	1,543,400	0	0	65	0	28	0	
1989	1,511,800	0	1,229	188	531	81	0	
1990	1,278,400	0	0	188	0	81	0	
1991	1,523,100	0	0	123	0	53	0	
1992	1,542,500	0	0	123	0	53	0	
1993	1,616,900	0	0	123	0	53	0	
1994		0	9	124	4	53	0	
1995		0	0	124	0	53	0	
1996		0	4,622	586	1,997	253	0	
1997		0	0	586	0	253	0	
1998		0	0	586	0	253	0	
1999		0	0	463	0	200	0	
2000		0	11,059	1,569	4,777	678	0	
2001		0	121	1,581	52	683	0	
2002		0	6,000	2,181	2,592	942	63,758	6/25-10/25
2003		0	6,000	2,781	2,592	1,201	6,542	multiple (5)
Average		19	2,189		845		2,066	

Notes:

(1) Modeled storage is from the draft Navajo Reservoir operations EIS. Navajo Reservoir gaged inflow records are available daily beginning 1956, and the modeling period used in the EIS ended 1993. The total depletion in New Mexico used in the model was 610,600 acre-feet, as compared to 609,800 acre-feet projected in New Mexico's Upper Basin depletion schedule. The total depletion served from the Navajo Reservoir water supply is also similar between documents. It is assumed that May 31 storage in 2002 and 2003 would be modeled under full development conditions to be less than 1 million acre-feet due to the severity of the recent drought, and in particular, the 10% of average runoff that occurred in 2002.

(2) Model results showed no shortages to the amount of depletions modeled while operating Navajo Dam to make contract deliveries and to meet flows for endangered fish habitat in the San Juan River recommended by the San Juan River Basin Recovery Implementation Program. Under full development, shortages may have occurred during 2002 and 2003, and a 10% shortage to the Navajo Indian Irrigation Project diversion demand is assumed for both years.

(3) The depletion of the releases from storage for delivery to the Fruitland and Hogback projects is computed assuming an incremental river channel loss of 2%, a project efficiency of 38% (38% of the diversion satisfies the consumptive irrigation use after accounting for canal and irrigation efficiencies), and incidental depletions equal to 16% of the consumptive use. Possible re-diversion and re-use at Hogback of incremental return flows from the Fruitland project resulting from diversion of alternate source water at Fruitland is not included in this calculation.

(4) Return flows from diversions by the Fruitland and Hogback projects under the alternate water source provisions might be credited towards meeting the habitat flow needs of endangered fish in the San Juan River and might be released from Navajo Dam to maintain such habitat flows without the alternate water source provisions. The amount of release chargeable to the NIIP contract right might vary depending on the recommended flows for endangered fish habitat, Navajo Dam operations to meet such flows, whether any portions of the return flows bypass gages used to measure performance under the flow recommendations, and the extent to which dam releases for endangered fish habitat might be considered as carriage water. To the extent that Navajo Dam releases made to meet the flow recommendations can be considered as carriage water and not as a delivery chargeable against the NIIP contract diversion right, the periods of shortage could be shortened and the depletions associated with alternate water sourcing for 1956, 1959, 2002 and 2003 chargeable to the NIIP contract right would exceed those shown, and the releases from storage specifically for use at Fruitland and Hogback for other years would be less than those shown. The flow recommendations for endangered fish habitat are subject to change through adaptive management.

(5) Periods of shortage to direct-flow users include July 26-28, August 4-14, August 20-23, and September 27-October 31. Based on provisional flow data for 2003.

Summary of findings:

(1) The provisions of subparagraph 9.1 of the Settlement Agreement do not affect contract deliveries from runoff above Navajo Dam.

(2) Under the alternate water source provisions of subparagraph 9.2 of the Settlement Agreement, the years of shortage experienced by the direct-flow users below Navajo Dam are reduced from 46% of the years (22 years out of 48, excluding total shortages of 10 acre-feet or less in 1966 and 1994) to 8% of the years (4 years out of 48) for the period of record. If historic hydrology patterns repeated, about two years of shortage would occur every 45 years or so, or in about 4% of years, pursuant to subparagraph 9.2. If releases made from Navajo Dam to benefit endangered fish species in the San Juan River can be used as carriage water to and through the Fruitland and Hogback projects, the releases from Navajo Dam made pursuant to subparagraph 9.2 can provide greater coverage against the occurrence or extent of priority calls. Actual accounting of alternate water source deliveries would be determined based on conditions at the times of delivery.

Assumptions generally used in study:

(1) Analysis considers only water rights in New Mexico.

(2) Hogback and Fruitland projects combined divert about 325 cfs every day during April through October (includes municipal and domestic use diversions at Shiprock pursuant to subparagraph 3(d) of the proposed Partial Final Decree).

(3) Rate of daily average direct flow needed to satisfy all demands of direct flow users during April-September:
   (a) combined direct flow of the Animas River near Cedar Hill and the San Juan River at Archuleta of 700 cfs, with direct flow of the San Juan River at Archuleta of 250 cfs; or
   (b) direct flow of the San Juan River at Archuleta of 450 cfs, with direct flow of the Animas River near Cedar Hill of 250 cfs or less.

(4) Rate of daily average direct flow needed to satisfy all demands of direct flow users during October:
   (a) combined direct flow of the Animas River near Cedar Hill and the San Juan River at Archuleta of 500 cfs, with direct flow of the San Juan River at Archuleta of 250 cfs; or
   (b) direct flow of the San Juan River at Archuleta of 250 cfs, with direct flow of the Animas River near Cedar Hill of 250 cfs or less.

(5) Direct flow of the San Juan River at Archuleta equals the maximum of:
   (a) the inflow to Navajo Reservoir computed using a water budget computation for the reservoir, averaged over three consecutive days; and
   (b) the sum of the gaged inflows to Navajo Reservoir at four gaging stations (San Juan River at Carracas, Piedra River near Arboles, Los Pinos River at La Boca, and Spring Creek at La Boca), plus 20 cfs for intervening inflow between the gages and Navajo Dam under pre-dam conditions, averaged over three consecutive days.

   Provided, that the direct flow, if computed pursuant to (a) and (b) to be less than 225 cfs, will be determined for the purpose of water rights administration as a minimum of 225 cfs if Navajo Reservoir storage exceeds 1 million acre-feet at the end of May.

Sensitivity of results to study factors:

Factor:	Impact on estimated shortages and the amounts of release pursuant to the alternate water source provisions:
(a) Peak irrigation consumptive use and river loss conditions apply during April-September	tends to over-estimate
(b) Irrigation, including at Fruitland and Hogback, is at maximum cfs rates with no annual volume limits	tends to over-estimate
(c) No inflows occur below Cedar Hill and Navajo Dam, including from the La Plata River, except return flows	tends to over-estimate
(d) Historic flows repeat on the Animas River near Cedar Hill and in the drainage above Navajo Dam	impact depends on future hydrology and uses in Colorado

Other remarks:

State Engineer administration of the rights to divert from the direct flow and from stored water is expected to follow approval of statewide rules and regulations for active water resource management. It is anticipated that a draft water resources administration manual for the San Juan River Basin may be released for public review and comment in 2005. The assumptions made in this study regarding the determination of the direct flow at Navajo Dam and administration of the direct flow should not be viewed to pre-determine the outcome of the public review process on basin-specific administrative criteria. Regardless of differences that may occur between study assumptions and actual administration conditions, it can be concluded from the study that the alternate water source provisions provide significant protection to direct-flow users in the San Juan River Basin in New Mexico against the occurrence of curtailment by priority call when the direct flow is insufficient to meet all the demands under the rights to divert and use direct flow in New Mexico. The Navajo Nation and non-Navajo water users in the Basin will still need to cooperatively address severe drought conditions from time to time in the future.

Exhibit 2

Attached to:
GARY L. HORNER'S RESPONSE TO THE
STATE OF NEW MEXICO'S MEMORANDUM IN SUPPORT OF SETTLEMENT
MOTION FOR ENTRY OF PARTIAL FINAL DECREES
Filed May 10, 2013

NAVAJO INDIAN RESERVATION

HOGBACK & FRUITLAND IRRIGATION PROJECTS

CROP AND UTILIZATION SURVEY

United States Department of the Interior
Bureau of Indian Affairs

Shiprock Agency
Branch of Natural Resources
October 1993

SUMMARY

This document represents an effort by the Shiprock Agency Branch of Natural Resources to determine the extent of utilization of irrigated land on the major irrigation projects of Hogback and Fruitland. Cudei is included as part of Hogback and the San Juan farms are included with Fruitland.

Prior to 1979 the Navajo Tribe Irrigation Operation and Maintenance office conducted a crop survey on an annual basis. However, that survey has not been done for the last fifteen years, resulting in a lack of data upon which to base decisions relative to the irrigation projects. The data compiled in this report will hopefully bridge this gap and provide Tribe and Bureau personnel with information which will allow them to render informed decisions affecting the future of the Hogback & Fruitland Irrigation Projects.

GENERAL

The field work for the survey began in mid-September and concluded in mid-October. In the future it is anticipated that the field schedule will be moved to an earlier time frame, possibly mid-August to mid-September.

In conducting the field survey each Land Use Permit (representing an individual farm) was inspected by at least one staff member. Depending on the cropping pattern, the acreage of each farm was allocated to one or more of six categories: corn, alfalfa, produce, pasture, idle, or abandoned. Although limited in number, these six categories accurately reflect the cropping system of the vast majority of Navajo farmers.

In order to simplify the mechanics of the field work, the smallest acreage recorded was one acre. Recording any smaller delineation was considered far too time consuming to justify, and statistically insignificant in affecting the survey results.

An early concern regarding field work was the possibility of inconsistencies between different staff members in categorizing acreage. A sample of approximately eighty farms was inspected to ascertain the consistency in the application of standards, resulting in the discovery of no discrepancies.

A field was categorized as alfalfa only if the plant centers were no more than 10" to 12" apart. If the distance exceeded this standard, the field was relegated to the status of pasture.

Pasture was generally considered as any combination of alfalfa, clover, annual and perennial grasses. If the field was weed infested, ungrazed, or unmowed, it was categorized as idle.

Idle lands were those areas which were not planted in any identifiable crop. If a crop was planted, but had become so weed infested that it had little or no market value, that acreage was considered idle.

Abandoned lands were fields which had not been cultivated for several consecutive seasons. Usually such fields were weed infested and characterized by the emergence of woody vegetation such as Chinese Elm and Russian Olive.

Although technically part of the Hogback Irrigation Project, Cudei has been tabulated separately in deference to the local custom.

CONCLUSIONS

In reviewing the data the most conspicuous aspect is the alarming amount of acreage categorized as idle or abandoned. In Hogback this amounts to 6018 acres. or 73% of the total irrigated acreage. If the expired agricultural leases are excluded from the calculation, the amount of acres is reduced to 3082, representing 63% of the irrigated acreage.

In Cudei 372 acres, 69% of the irrigated acreage, are idle or abandoned.

In Fruitland 1139 acres, or 35% of the irrigated acreage, are categorized as idle or abandoned.

To what cause these percentages are attributable is uncertain. Extant reports and correspondence by Bureau personnel in the 1950's and 1960's are replete with concerns over unutilized and under-utilized farms. The situation seems to be a recurring problem, rather than one unique to the 1990's.

One major problem surfaced during both the field work and the calculation of acreage using the Branch's permit maps. Apparently a significant number of permittees have altered the boundaries of their farms without the permission of the Farm Board. Consequently many of the farms have configurations substantially different from the original surveys from which the permits were issued. Adding to this confusion is the realization that several areas are being farmed which have never been permitted.

HOGBACK IRRIGATION PROJECT

SEPTEMBER 1993

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
A-1-0	BENALLY	GEORGE JR.	20.0	12.0	0	0	0	0	12	8	KNAPWEED INFESTED
A-1	BUCK	RUFUS etal	38.0	38.0	0	0	0	0	38	0	COMBINE W/A-3
A-1-1	JACK	JOHNNY	4.0	4.0	0	0	0	0	0	0	
A-2	BALLOON	TOM	15.2	15.2	0	0	0	0	15	0	
A-3	BUCK	RUFUS etal	18.8	18.8	0	0	0	0	0	0	
A-4	POYER (T)	MARILYN	17.9	17.9	1	2	0	0	14	0	
A-5	BLUEEYES	LOUISE	20.0	20.0	0	13	0	0	6	0	
A-6	KELLYWOOD	IRENE	18.3	18.3	4	2	0	2	2	0	6 GRAIN
A-7	FUNSTON	THOMAS	8.9	8.9	0	0	0	0	9	0	
A-7-A	FUNSTON (T)	THOMAS	8.9	8.9	0	0	0	0	9	0	
A-8	HOBSON	CLARENCE	18.5	18.5	2	10	0	0	6	0	
A-9	WOODY	JAMES B.	10.8	10.8	0	5	0	0	5	0	
A-9-A	FUNSTON	FRANK	5.0	5.0	1	3	0	0	1	0	
A-10	FUNSTON	FRANK	5.0	5.0	1	0	0	0	12	0	
A-11	WOODY	JIMMY & H.	13.6	13.6	1	0	0	0	10	0	
A-11-A	BENALLY	MARY E.	10.7	10.7	1	4	0	0	5	0	
A-12	HARRISON	MARIE	19.0	19.0	0	9	0	0	12	0	
A-13	FOSTER	LARRY	20.0	19.0	3	5	0	0	11	0	
A-14	JOE	RAYMOND Z.	6.6	6.6	0	3	0	0	4	0	
A-15	FOSTER	GILBERT	11.0	10.6	0	7	0	2	1	0	
A-16	JOE	LILLY	5.0	5.0	0	5	0	0	0	0	
A-16-A	BEGAY	HELEN T.	5.5	5.5	0	0	0	0	0	0	COMBINED W/A-16
B-1	EMERSON	LARRY	26.4	24.5	0	3	0	0	21	0	
B-2	EMERSON	PATSY & E.	37.6	22.1	3	0	0	0	19	0	
B-2-B	DUNCAN	PAUL	6.2	6.2	0	0	0	0	6	0	
B-3	DUNCAN	BESSIE	29.5	29.5	8	11	0	1	8	0	
B-4	BENALLY	LOWE & A.	31.5	31.5	0	23	0	0	8	0	
B-5	DALE	MARY LOU	24.7	24.7	0	0	0	0	25	0	
B-6	PETTIGREW	ROBERT & F	29.2	29.2	3	8	0	0	18	0	
B-7	LEWIS	VELMA	18.5	18.5	1	0	0	0	18	0	
B-8	BENALLY	LAWRENCE	44.4	22.8	0	0	0	0	23	0	
B-9	NELSON	HARVEY	15.7	15.7	0	0	0	0	16	0	
B-10	WILLIE	RAYMOND &	26.2	26.2	4	5	0	0	18	0	
B-11	BEKIS	SIMPSON &	28.3	28.0	0	0	0	0	28	0	
B-12	YAZZIE (T)	NITA S.	18.4	18.4	0	0	0	0	18	0	
B-13	YAZZIE (T)	NITA S.	16.7	14.3	0	0	0	0	14	0	
B-14	NALJAHIH	LORRAINE &	36.4	34.0	10	3	0	0	21	0	
B-15	HOBSON	MARY L.	32.5	30.0	5	4	0	0	20	0	
B-16	JIM	LOUIE	29.8	29.8	6	17	0	0	7	0	
B-17	JOHN	HARRY & J.	30.0	30.0	6	12	0	0	11	0	
B-18	CHILLY	TOM D.	19.7	30.7	10	8	0	0	12	0	COMBINE W/B-18-A
B-18-A	CLAH	STEWART	11.0	11.0	0	0	0	0	0	0	COMBINE W/B-18
B-19	GARDENEZ	SAM	30.5	30.5	0	0	0	0	30	0	
B-20	BEGAY	ABRAHAM &	32.6	32.6	0	3	0	4	26	0	
B-21	COHOE	ALONZO & C	31.8	27.9	0	0	0	0	28	0	
B-22	BENNETT	EVANGELINE	28.8	28.8	0	0	0	0	23	0	
B-23	HARRISON	RAYMOND	27.3	27.3	0	0	0	0	27	0	
B-24	BEGAY	BOBBY T.	22.8	22.8	4	6	0	0	12	0	
B-25	LEWIS	ALEX	10.7	10.7	1	0	0	0	9	0	
B-26	TAYLOR	SUSIE & S.	10.0	10.0	0	0	0	0	10	0	
1	CLUGSTON	MARY A.	22.0	22.0	0	0	0	22	0	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
1-A	AYZE	MARY	6.2	6.2	0	0	0	6	0	0	
1-B	CLUGSTON	MARY A.	12.1	12.1	7	0	0	5	0	0	
1-E	JACK	LOWE A.	3.0	0.0	0	0	0	0	3	0	
1-F	JACK	STELLA C.	7.0	7.0	0	0	0	0	7	0	
1-G	CLUGSTON	MARY A.	2.9	2.9	0	0	0	0	3	0	
2	KINLICHEE	ALICE & P.	20.9	20.9	0	0	0	0	21	0	
3	HARRISON	MARGARET	8.5	8.5	0	8	0	0	0	0	
3-A	LOPE	ANDREW	5.3	0.8	0	0	0	0	0	5	
3-B	KING	FLORENCE	8.5	8.5	0	8	0	0	0	0	
3-C	LOPE	HAZEL	8.5	8.5	0	0	0	0	8	0	
4	JONES	JEAN	9.9	9.9	0	0	0	0	10	0	
5	BEGAY	LUCY C.	7.7	5.5	1	4	0	0	2	0	
6	MURPHY	AMY	10.4	9.4	0	0	0	0	10	0	
7	DEVORE	DAVID C.	9.8	7.1	1	5	0	0	4	0	
8 & 9	DUNCAN	SHORTY	16.5	15.5	1	13	0	0	2	0	COMBINE W/PLOT #9
9	DUNCAN	SHORTY	0.0	0.0	0	0	0	0	0	0	COMBINE W/PLOT #8
10	DEVORE	DAVIDSON	7.5	6.8	0	0	0	0	7	0	
11/12	JOE	DAVID	13.7	13.7	0	2	0	0	6	0	6 GRAIN
12	JOE	DAVID	6.3	5.1	0	0	0	0	0	0	
13	LAPAHIE	HARRISON	13.5	9.2	0	8	0	0	5	0	
14	BEGAY	IRENE J.	24.9	23.8	0	4	0	0	21	0	
14-B	LAPAHIE	HARRISON	4.3	4.1	4	0	0	0	0	0	
15	BRADLEY	WILBERT	22.8	22.8	0	18	0	0	3	0	
16	BENALLY	ETHEL &	18.0	16.3	0	0	0	2	0	0	
17	JIM	LEE	10.8	10.0	0	1	0	0	9	0	
18	JIM	NELSON	4.2	4.2	0	0	0	0	4	0	
19	JIM	HARRISON	19.7	14.0	1	4	0	0	15	0	
20	BEGAY	JULIUS	8.5	8.5	4	0	0	0	4	0	
21	JIM	NELSON	7.8	7.8	0	0	0	0	7	0	
22	YAZZIE	RAPHAEL D.	11.4	11.1	2	0	0	0	9	0	
23	DALE	LUCILLE &	27.3	0.0	4	2	0	0	20	0	
24	PESHLAKAI	HARRY	8.2	8.2	0	1	0	0	7	0	
25	NAKAI	JIMMY & H.	22.4	19.8	3	18	0	0	1	0	
26	GEORGE	WILMA	22.9	22.9	3	0	1	0	17	0	2 GRAIN
26-A	DALE	LUCILLE &	10.0	9.8	4	0	1	0	2	0	2 GRAIN
27	WOOD	RUBY H.	10.5	8.6	0	9	0	0	0	0	
28	BEGAY	ISABELLE	19.2	19.5	0	12	0	7	0	0	
29	MARTIN	FRED H. &	21.8	21.8	0	0	0	22	0	0	
29-A	KELLY	JIMMIE & J	15.3	0.0	0	7	0	8	0	0	
29-B	BEGAY	FRED JR.	1.5	1.5	0	0	0	0	1	0	
30	FRANKLIN	HARRY	28.8	17.4	0	0	0	0	29	0	
30-A	BENALLY	DANIEL &	6.2	5.6	1	1	0	0	5	0	
30-B	DUNCAN	LOUIS & J.	5.0	0.0	0	0	0	0	5	0	
31	ALLISON	JIMMIE & F	10.0	9.5	0	0	0	0	10	0	
32	JOHNSON	DAVID JR.&	22.8	22.8	0	7	0	0	15	0	
32-B ?	JOHNSON	DAVID & H	5.4	5.4	0	0	0	0	0	0	
32-A	JOHNSON	THOMAS & E	16.6	5.7	1	7	1	0	8	0	
33	DISH	PAULINE	11.4	7.2	0	0	0	0	11	0	
33-A	SHAY	JULIA & H.	23.2	16.6	1	8	0	0	10	0	4 GRAIN
33-B	CHARLEY	ROBERT &	5.4	5.4	0	0	0	0	0	0	33-A & B & C
34	NEZ	HOWARD SR.	39.4	27.9	0	14	0	11	18	0	COMBINE W/33-A/B/C

HOGBACK IRRIGATION PROJECT

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
35	NEZ	HOWARD SR.	0.0	0.0	0	0	0	0	0	0	
36	NEZ	HOWARD SR.	42.5	28.4	0	13	0	10	18	0	
36-A	NEZ	HOWARD	15.0	0.0	0	6	0	0	9	0	
37	ALLEN	ANNIE	11.9	0.0	1	2	0	0	9	0	
38	BITAH	THOMAS & E	7.1	6.8	0	0	0	0	7	0	
39	JOE	LEWIS & F.	6.5	6.5	5	0	0	0	1	0	
40	BELIN	BESSIE	4.9	2.0	3	2	0	0	0	0	
41	BELIN	BESSIE	13.1	9.2	6	2	0	0	4	0	
41-A	COLLINS	WILLIAM &	1.5	1.5	0	0	0	0	1	0	
42	LEE	WOODY & A.	9.5	9.1	0	2	0	3	5	0	
42-A	MARTIN	ELISE B.	11.6	11.3	0	0	0	0	11	0	
43	BENNETT	AILEEN A.&	7.6	7.5	0	0	0	0	7	0	
44	BENALLY	EVA M.	10.8	10.8	1	9	0	0	1	0	
45	PETE	JIMMIE & J	6.3	5.8	1	8	0	0	2	0	
46	MISSING FILE		0.0	0.0	4	7	0	0	0	0	
46-A	GOODLUCK	CLEMENT J.	4.5	4.5	0	0	0	0	4	0	
47	JIM	JOHN	12.2	12.2	1	0	0	0	11	0	
47-A	BEGAY	JAMES & M	4.3	4.1	2	2	0	0	0	0	
48	MISSING FILE		0.0	0.0	0	0	0	0	0	0	
49	BENALLY (T)	GEORGE JR.	12.5	12.5	2	2	0	0	8	0	
50	BENALLY	NED	11.2	11.2	1	6	0	0	4	0	
51	BENALLIE	CHEE D.	7.0	7.0	0	0	0	0	7	0	
52	BUCK	MARY	11.8	9.8	0	0	0	0	12	0	
53	BEGAY	VIRGINIA	6.5	6.1	1	5	0	0	0	0	
53-A	JOHNSON	GENE	1.4	1.4	0	0	0	0	0	1	
54	BUCK	HARRISON &	11.5	8.7	1	0	0	1	10	0	
54-A	BUCK	JONAH	1.4	1.4	1	0	0	0	0	0	
55	ATSON	HARRIS C.	12.5	9.5	0	0	0	0	12	0	
56	WILLIAMS	DELVIN &	5.6	5.6	0	0	0	0	5	0	
57	HOWE	GEORGE	9.9	9.9	0	0	0	0	10	0	
58	BEGAY	CAROL A.	9.8	9.8	5	0	0	0	5	0	
59	TOGLENA	IRVIN	10.0	6.7	1	0	0	0	9	0	
60	SAM	TOM JR.	1.3	1.3	0	0	0	0	1	0	
60-A	CURLY	DON	9.8	9.8	1	0	0	0	8	0	
60-B	ATSON	NELLIE T.	1.0	1.0	0	0	0	0	1	0	
60-C	ATSON	HARRIS C.	5.7	5.7	0	0	0	0	5	0	
60-D	MESCAL	WILFORD A.	6.0	6.0	0	0	0	0	6	0	
61	SMITH	BESSIE N.	4.5	4.5	0	0	0	0	4	0	
61-A	FRAZIER	JESSIE B.	10.7	10.7	0	0	0	0	11	0	
61-B	SCOTT	MARIE B.	3.0	3.0	0	0	0	0	3	0	
61-C	SMITH	JESSIE B.	2.0	2.0	0	0	0	0	2	0	
62	BEGAY	RAYMOND &C	8.7	8.7	2	0	0	0	6	0	
63	BEGAY	ELMER	10.3	9.8	0	6	0	0	4	0	
64	GARMENEZ	LAWRENCE	9.9	9.8	1	0	0	0	9	0	
65	HARRIS	WILFORD K.	9.9	9.9	1	0	0	4	5	0	
66	PUGGIE	JOHNNIE R.	10.1	9.8	0	8	0	0	2	0	
67	MARTIN	FRANKIE &	9.4	9.4	0	0	0	0	9	0	
68	KING (G)	GLORIA	11.7	11.7	0	0	0	0	11	0	
69	MARTIN	WALLACE	10.6	10.6	0	0	0	0	10	0	
70	NO PERMIT	CONVERTED	0.0	0.0	0	0	0	0	0	0	BUSINESS LEASE-1967
71	KELLYWOOD	KENNETH &	19.7	19.7	0	0	0	0	20	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
71-A	JOHNSON	HERMAN	2.0	2.0	0	0	0	0	2	0	
72	KIRK	VIRGIL L.	22.7	19.0	0	0	0	0	23	0	
73	YAZZIE	ELIZABETH	11.6	8.5	0	1	0	0	11	0	
74	THOMAS	GEORGE & M	10.0	10.0	0	2	0	0	8	0	
74-A			0.0	0.0	0	0	0	0	0	0	
74-B			0.0	0.0	0	0	0	0	0	0	
75	GARMENEZ	RILEY &	9.2	9.2	0	0	0	0	9	0	
75-A	GARMENEZ	ANTHONY T.	6.5	6.2	0	0	0	0	6	0	
75-B	NELSON	TOM A.	7.6	2.9	0	1	0	0	6	0	
76	YAZZIE	SAMPSON	9.6	9.6	2	4	0	0	3	0	
77	TSO	RAYMOND H.	15.0	11.5	1	0	0	0	14	0	
77-A	KELLYWOOD	BESSIE	4.0	0.0	0	0	0	0	4	0	
77-B	HILT	LEONARD	4.5	0.0	0	0	0	0	0	0	5 NF
78	PUGGIE	JOHNNIE	9.2	0.0	1	2	0	0	6	0	
78-A	CLARK	KATIE	1.2	1.0	0	0	0	0	1	0	
79	WOODY	ANNA MAE	13.1	13.1	0	0	0	0	13	0	
80	BUCK	FRANK	11.0	11.0	3	4	1	0	2	0	
81	WILLIE	ANNA MAE	11.3	10.1	5	0	0	0	6	0	
81-A	JOHNSON	TERRY J.&	1.0	1.0	0	0	0	0	1	0	
81-B	LEE	STELLA DAN	1.5	1.5	0	0	0	0	1	0	
82	SMART	JOE	4.0	2.2	0	2	0	0	2	0	
82-A	BUCK	ELISE B.	5.0	0.0	1	3	2	0	7	0	
82-B	BEHALF	MARIE NEZ	5.0	5.0	1	1	2	0	7	0	COMBINE W/82-C
82-C	JOE	DARLENE &	15.6	15.6	0	0	0	2	2	0	
82-D	NO INFO.		0.0	0.0	0	0	0	0	0	0	
82-E	CLAW	CHARLEY &E	6.4	3.2	0	0	0	0	0	0	
83	JOE	DARLENE &R	6.0	6.0	0	0	0	0	6	0	
84	JOHNSON	FRANKLIN	6.5	6.5	0	6	0	0	0	0	
85	JOE	JIMMIE & H	6.4	3.1	0	3	0	0	3	0	
85-A	FRANCIS	MARY L.	1.5	1.5	0	0	0	0	1	0	
86	SPENCER	FELIX & M.	7.7	7.6	0	3	0	5	0	0	
86-A	WITHDRAWN	BUSINESS	3.8	0.0	0	0	0	0	3	0	
87	BLUEEYES	FRED	6.0	3.7	0	0	0	0	6	0	
88	BEARD	BESSIE & T	3.6	3.6	0	2	0	0	1	0	
88-A	LUCERO	OSCAR	4.2	1.2	0	0	0	0	4	0	
88-B	WOODIS	FRANKIE	2.2	2.2	0	2	0	0	0	0	
89	HARRISON	PIERCE R &	12.5	9.7	0	0	0	0	12	0	
89-A	JOHNSON	HARVEY G.	4.4	4.4	0	0	0	0	4	0	
89-B	BURTON	MARY ANN &	3.2	1.2	1	0	0	0	3	0	
90	FRAZIER	WILLARD	4.0	4.0	0	0	0	4	0	0	
91	JOHNSON	TOM J. & F	1.2	1.2	0	0	0	0	2	0	
91-A	SILAS	JANE	1.0	1.0	0	0	0	0	1	0	
92	PRESBYTERIAN	MISSION	1.0	1.0	0	0	0	0	1	0	
92-A	DAMON	OSCAR	1.0	1.0	0	0	0	0	1	0	
93	NO PERMIT IN	FOLDER	0.0	0.0	0	0	0	0	0	0	
94	HANAGARNE	FRANK SR.&	8.6	8.6	5	0	1	0	3	0	
95	FOSTER	PATRICK A.	10.5	10.5	0	0	0	0	10	0	
96	YAZZIE	ELMER & A.	7.8	0.0	0	0	0	0	0	8	
97	NO PERMIT IN	FOLDER	19.5	19.5	0	0	0	0	19	0	
98	CHASE	CHESTER SR	1.2	1.2	0	0	0	0	1	0	
99	WASHBURN	JOHNSON &C	17.5	4.5	0	0	0	0	17	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
99-A	CLOUD	BETH	2.1	2.5	0	0	0	0	2	0	
100	YAZZIE	JUSTIN D.	8.2	7.6	0	2	0	0	6	0	
101	DUNCAN	MARTIN	12.7	12.7	0	4	0	0	9	0	
102	NESWOOD	RACHEL	4.6	4.6	0	0	0	0	5	0	
103	FEDERAL W/D		0.0	0.0	0	0	0	0	0	0	
103-A	FRANK	JOHN	2.0	0.0	0	0	0	0	2	0	
104	CHASE	ROY H.	8.8	0.0	0	0	0	0	8	0	
104-A	STOKELY	PETER &EVA	3.5	3.5	0	0	1	0	3	0	
104-B	BEHALLY	JIM JACK	2.6	0.0	0	3	0	0	0	0	
105	KELLYWOOD(T)	HERMAN & S	6.7	6.7	3	0	0	0	0	0	14 GRAIN
105-A	HOMESITE LSE		1.0	0.0	0	0	0	0	1	0	
105-B	GIPSON	PATRICIA	19.2	0.0	0	0	0	0	19	0	
106	NO INFO		0.0	0.0	0	0	0	0	0	0	
107 &	PHILLIPS	WILSON C.	21.0	10.0	0	0	0	0	0	0	
108	PHILLIPS	WILSON C.	0.0	0.0	1	7	2	0	0	0	
109	BILLY	ROBERT	14.3	14.3	8	0	2	0	4	0	
109-A	LEE	FRANK	14.3	14.3	5	0	1	0	8	0	
110	ROSS	RAYMOND &	9.4	9.4	0	0	0	9	0	0	
111	BEGAY	ROSE	5.6	5.6	2	0	0	0	4	0	
112	COOLIDGE	CALVIN	9.9	9.5	5	0	0	0	5	0	
113	WHEELER	LORETTA L.	9.7	8.9	0	0	0	0	10	0	
114	BECENTI	BETTY ANN	9.5	8.9	0	0	0	10	0	0	
114-A	MARTIN	FANNIE	8.8	8.8	0	0	0	9	0	0	
115	TOPAHONSO	EUGENE JR.	20.9	13.5	2	5	0	3	4	0	
116	GARNENEZ	JIMMIE SR.	14.7	12.1	0	0	0	0	10	5	
117	GARNENEZ	PERRY & E.	9.0	8.8	6	0	0	3	0	0	
118	GARNENEZ	PERRY	2.2	2.2	0	1	0	1	0	0	
119	BEHALLIE	MANUEL D.	11.0	10.6	5	0	0	0	6	0	
120	REID	TAYLOR & A	14.3	14.3	0	10	0	0	4	0	
120-A	WESTBROOK	RUTH	14.3	14.3	0	14	0	0	0	0	
121	PHILLIPS	ABE	4.1	4.0	0	2	0	0	2	0	
122	PHILLIPS	KENNETH A.	6.1	6.1	4	0	1	0	1	0	
122-A	BEN	TIMOTHY	10.5	10.5	8	0	2	0	0	0	
122-B	PHILLIPS	JANE G.	3.3	3.3	3	0	0	0	0	0	
123	SMITH	BILL &MARY	9.8	9.6	2	0	0	3	5	0	
124	SANDOVAL	PETERSON	9.1	9.1	0	10	0	0	0	0	
125	PETTIGREW	FREDDIE G.	9.7	9.7	2	1	2	2	3	0	
126	JOHN	CARMEN	9.5	9.5	0	0	0	0	5	5	
127	KING	LULA S.	7.0	6.0	0	0	0	0	4	3	
128	TSINNIE	ORVILLE &	9.3	9.3	0	5	0	0	5	0	
128-A	YAZZIE	BENJAMIN &	9.3	9.3	1	3	2	0	3	0	
129	THOMAS	LEO	7.3	7.3	0	0	0	0	0	7	
129-A	HENDERSON	CALLIE MAE	2.6	2.6	0	0	0	0	0	3	
130	MCKENSLEY	LEASE	0.0	0.0	0	0	0	0	0	0	
130-A	BEGAY	HORACE BEN	1.4	1.4	1	0	0	0	0	0	
131	WASHBURN	LEASE	0.0	0.0	0	0	0	0	0	0	
131-A	ARTEUR	SAM C.	2.0	1.4	0	0	0	0	0	2	
132	MCKENZIE	JOHN & A.	17.4	17.0	0	0	0	0	0	17	
133	POYER	EVERETT &	18.6	18.6	3	15	0	0	0	0	
134	SELLS	DONALD & M	10.3	9.7	0	0	0	0	10	0	
134-A	BIDTAH	JOHN H.	9.0	9.0	6	4	0	0	0	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
135	BEN	JOE JR.	7.6	7.3	0	7	0	0	0	0	
136	JOHNS	LEROY & H.	9.8	9.8	0	0	0	4	5	0	
137	WASHBURN	ELISE	9.7	9.5	0	0	0	0	5	5	
138	REDSHIRT	RAY & L.	7.8	7.8	0	8	0	0	0	0	
139	SUMMERS	THERESA &	9.0	9.0	2	5	0	0	0	2	
140	JOHNSON	MARILYNN &	12.6	11.8	0	0	0	0	0	12	
141	JIM	CHARLIE	10.7	10.0	3	7	0	0	0	0	
141-A	CHARLIE	ALFRED & M	5.6	5.6	0	0	0	0	5	0	
142	ATCITTY	THOMAS H.	10.0	8.8	5	0	0	2	3	0	
142-A	BIDTAH	KEE & K.J.	8.3	7.5	6	0	0	2	0	0	
143	JOE	ELISE &K.J	12.9	11.6	0	0	0	0	13	0	
144	BITAH	ERNEST	3.5	2.7	0	0	0	0	0	3	
145	LAMEMAN	CLIFFORD &	19.4	16.1	0	13	0	0	3	0	
146	HOSKAY	BENNIE	14.0	9.0	0	0	0	0	0	9	
147	ATCITTY (T)	JAMES JR	10.0	7.0	0	0	0	0	4	3	
148	ATCITTY	HARRY	4.3	3.2	1	0	0	0	2	0	
148-A	ATCITTY (T)	JAMES JR.	8.0	8.0	0	0	0	0	0	8	
149	BILLY	LUCY	8.1	8.1	0	8	0	0	0	0	
149-A	JIM	JOHAN & H.	15.1	15.1	0	12	0	0	3	0	
149-B	JIM	NORMAN B.	9.8	9.8	3	5	2	0	0	0	
149-C	NO INFO		0.0	0.0	0	0	0	0	0	0	
149-D	NEZ	HENRY S.	7.5	7.5	0	0	0	0	0	7	
150	SWOODY	EVELYN &	8.0	8.0	0	0	0	0	0	9	
150-TF	BLUEEYES	FRED	150.0	150.0	0	88	0	0	62	0	
150-A	ANDERSON	CHEE & W.L	332.0	332.0	9	10	0	0	63	250	
151	TYLER	JERRY	9.8	8.5	0	0	0	0	10	0	
152	BEGAY	GLORIA	8.0	8.0	0	0	0	0	8	0	
153	KING	LUCY P.	3.3	3.3	0	0	0	0	0	3	
153-A	VALDEZ	PHYLLIS	4.7	3.6	0	0	0	0	5	0	
154	CHARLEY	THOMAS	8.2	8.2	0	0	0	0	8	0	
155	BENALLY	RAYMOND &	8.0	8.0	2	3	0	0	3	0	
156	FOSTER	EDWARD & H	17.4	17.0	0	0	0	0	17	0	
157	COOLIDGE	CALVIN	9.0	9.0	0	0	0	0	9	0	
158	NO INFO.....		0.0	0.0	0	0	0	0	0	0	
159	BENALLIE	ANNA MAE	9.6	9.6	7	0	0	0	3	0	
160	VICTOR	TEDDY H.	17.0	17.0	2	0	0	12	3	0	
160-A	LEE	HOWARD	6.0	6.0	6	0	0	0	0	0	
161	MANUELITO	ROGER & S.	6.7	6.7	0	0	0	0	7	0	
161-A	NAKAI	TONY	3.0	3.0	0	0	0	0	3	0	
162	BENALLY	LUCILLE V.	4.7	4.7	0	1	0	4	0	0	
163	YAZZIE	CECELIA	8.0	8.0	0	0	0	1	2	5	
163-A	BEGAY	JOE K & L.	4.7	4.5	1	1	0	0	3	0	
164	SELLS	HARRY	6.5	6.5	0	0	0	0	6	0	
164-A	THOMAS	PAUL N.	3.5	3.5	0	0	0	0	3	0	
165	BEGAY	NED RAY	8.7	7.7	0	0	0	0	6	3	
166	BARBER	CHEE	9.5	7.9	3	0	0	6	0	0	
167	BARBER	CHEE & L.	3.0	3.0	0	0	0	3	0	0	
167-A	BEGAY	ROY & H.I.	3.7	3.7	0	0	0	3	0	0	
168	BEGAY	MARYLITA	9.3	8.1	3	0	3	0	0	3	
169	JELLY	JIMMY & L.	10.1	9.8	0	0	0	5	5	0	
170	NELSON	JIMMIE	9.9	9.9	0	4	0	0	6	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
171	BRADY	ALLEN C.	9.5	9.5	0	3	0	0	7	0	
172	CLARK	CHESTER	9.7	9.7	0	0	0	0	10	0	
173	SANDOVAL	DELORES	9.7	5.1	0	0	0	0	1	9	
174	SANDOVAL	DELORES	9.8	5.0	0	0	0	0	0	10	
175	BENNETT	JAY & ROSE	15.7	14.1	0	0	0	0	16	0	
175-A	JOHNSON	JONAS	2.3	2.3	0	0	0	0	0	2	
176	LEE	HERMAN & S	9.5	9.5	0	3	0	0	7	0	
177	ATSO	RICHARD &M	9.7	9.7	0	5	0	0	5	0	
178	BROWN	JIM	9.7	9.0	2	0	0	0	6	2	
179	RAMONE	JOAN & W.	8.2	8.2	0	0	5	0	3	0	
180	BENALLY	HARRY	9.8	9.4	5	0	0	0	5	0	
181	HAYES	WALLACE	19.6	14.9	10	2	0	3	1	2	
182	HAYES	WALLACE	0.0	0.0	0	0	0	0	0	0	
183	JELLY	JIMMY	4.4	4.4	1	0	0	0	3	0	
184	TALK	ROSE	8.4	8.3	0	4	0	0	4	0	
185	BEN	HERBERT SR	9.6	9.6	0	0	0	0	8	2	
186	BEN	JOE	9.7	9.7	2	0	2	6	0	0	
187	ATCITTY	LOUIS H.	9.8	2.3	0	0	0	0	0	10	
188	NABAHE	ANTHONY	10.0	2.6	0	8	0	0	0	2	
189	TODACHEENE	JERRY J.	9.3	9.3	3	0	0	0	6	0	
190	DENETCLAW	MAE	10.0	10.0	0	0	0	10	0	0	
191	CLAH	LOUIS	9.7	9.5	0	0	4	0	3	3	
192	BEGAY	ROY D. Y	9.7	9.4	2	0	1	0	0	7	
193	BEGAY		9.6	9.4	3	0	0	0	7	0	
194	BEGAY	GRACE	19.5	12.7	2	3	0	0	12	3	
194-A	BEGAY	STEVE & G.	7.0	7.0	0	0	0	0	0	0	
195	TODACHEENE	CARL L.	20.7	7.5	0	0	0	0	0	20	
196	BUCK	WALLACE &	9.9	9.9	0	0	0	0	10	0	
197	BITSUIE	JOHN W.	10.0	9.3	0	0	0	3	7	0	
198	FASTHORSE	TOMMY SR.	9.4	9.1	2	0	0	3	4	0	
199	YAZZIE	MARIE	9.8	9.7	4	0	2	4	0	0	
200	JOHNSON	HARVEY & K	9.5	9.0	0	0	0	10	0	0	
201	SHORTY	ROSE MARIE	9.0	9.0	8	0	2	0	0	0	
202	BEGAY	JOHNNY C.	9.9	9.9	0	0	0	5	5	0	
203	BEGAY	JOHNNY C.	9.5	9.5	0	0	0	10	0	0	
204	HENRY	ANNIE	10.1	10.1	3	2	0	2	3	0	
205	BENALLY	LEO D.	5.6	5.6	0	0	0	0	6	0	
206	JIM	JERRY	5.0	5.0	0	0	0	0	5	0	
206-A	WATER ???????	WILLIE ??	10.6	10.6	0	0	0	0	0	0	
207	NAKAI	LAVERNE &C	10.0	9.5	8	2	0	0	0	0	
208	BENALLY	LEE D. & P	9.9	9.9	0	0	0	0	10	0	
209	HENDERSON	ROBERT & F	10.1	8.7	3	0	0	0	7	0	
210	DENNISON	GEORGE W.	10.0	10.0	0	0	0	10	0	0	
211	DENNISON	GEORGE W.	9.7	9.7	0	0	0	10	0	0	
212	WOODY	ARNOLD & A	9.5	6.6	0	0	0	0	5	5	
213	BALDWIN	PHYLLIS	9.0	9.0	3	6	0	0	0	0	
213-A	SMITH	GARY R.	10.0	9.7	0	0	0	0	10	0	
214	BROWN	DORTHY & S	7.8	7.8	4	1	0	0	3	0	
215	YAZZIE	THOMAS	8.8	8.8	5	4	0	0	0	0	
216	SHORTHAIR	JONAS	9.0	9.0	2	0	0	0	7	0	
217	NO PERMIT		0.0	0.0	0	0	0	0	0	0	

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
218	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
219	TSO	CAROL H.	9.2	9.2	0	0	0	0	10	0	
220	FRANK (T)	JIM JR.	16.6	16.1	0	4	0	0	10	2	
221	ATCITTY (T)	JAMES D.JR	5.0	5.0	0	0	0	0	0	5	
222	GARMENEZ	SAM	10.0	9.5	0	5	0	0	5	0	
223	TALK	TONY &JUDI	7.6	7.6	1	4	0	3	0	0	
223-A	PHILLIP	PAUL	1.0	1.0	0	0	1	0	0	0	
224	BIDTAH	JIMMY & C.	9.2	9.2	0	0	0	0	9	0	
224-A	LIGHT	LESTER	9.6	9.6	0	0	0	0	9	0	
225	TSINNIE	ORVILLE &D	9.7	9.7	0	0	0	0	10	0	
226	BEGAY	NED N.	9.5	9.5	0	0	0	0	10	0	
227	KEE	HUSKIE & B	20.2	20.2	5	10	0	5	0	0	
228	CAP	JOE	9.3	9.3	0	9	0	0	0	0	
229	JOHN	RICHARD	9.8	9.8	0	5	0	0	5	0	
230	BENNETT	ALFRED & L	9.9	9.9	10	0	0	0	0	0	
231	DODGE	JOHN JR.&	19.7	18.4	0	0	0	0	10	10	
232	DODGE	JOHN JR.&	0.0	0.0	0	0	0	0	0	0	
233	JOHN	CHARLEY	19.2	18.4	9	0	5	0	2	3	
234	GOULD	SAM & ROSE	7.5	7.5	0	0	0	0	0	0	
235	MURPHY	MARY LOU	10.2	5.2	0	5	0	0	0	0	
236	TYLER	THOMAS T.	9.7	9.7	0	0	0	0	10	0	
237	LEE	EMERSON T.	7.3	7.3	0	2	0	0	5	0	
237-A	GRAY	CHRISTINE&	2.0	2.0	0	0	0	0	2	0	
238	LEE	EMERSON T.	10.0	10.0	0	4	0	6	0	0	
239	DODGE	JOHN JR.&	11.0	7.1	0	0	0	0	11	0	
239-A	ATCITTY	JIM & LULA	1.9	0.5	1	1	0	0	0	0	
240	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
241	JORDAN	BETTY B.	6.6	6.6	3	0	0	0	4	0	
241-A	LANGMAN	CLIFFORD	3.0	3.0	0	0	0	0	3	0	
242	YAZZIE	VIRGINIA	8.0	8.0	5	0	0	0	3	0	
243	SIMPSON	JAMES M.	9.8	9.7	6	0	0	4	0	0	
244	JOHNSON	JEROME	9.6	9.6	3	0	0	0	7	0	
245	JOHNSON	LILLY M.	9.4	9.4	0	0	0	0	9	0	
246	BEN	MYRA	9.2	9.2	0	0	0	9	0	0	
247	BENALLY	NAT D.	8.6	8.6	4	5	0	0	0	0	
247-A	KEE	HUSKIE & B	1.0	1.0	0	0	0	0	1	0	
248	MIKE	JOHN & IDA	9.2	9.2	7	0	0	2	0	0	
249	SEE #109		0.0	0.0	0	0	0	0	0	0	
250	BENALLY	NAT D.	10.0	9.9	3	4	0	0	3	0	
251	SEE #109		0.0	0.0	0	0	0	0	0	0	
252	NEZ (T)	RUTH	8.6	8.6	0	0	0	0	9	0	
252-A	NOLAND	THEODORE	9.6	8.2	0	0	0	0	10	0	
253	LEE	VIOLET V.	8.8	8.8	0	0	1	0	7	0	
254	CHARLEY (T)	WALLACE	10.3	9.4	0	0	0	0	10	0	
254-A	YAZZIE	EVERETT &	2.0	2.0	0	0	0	0	2	0	
255	YAZZIE	HERBERT D.	8.0	7.2	0	8	0	0	0	0	
256	JOHNSON	CECELIA &	6.8	6.3	1	0	0	4	2	0	
257	DODGE	LEONARD	0.0	0.0	0	0	0	0	0	0	
258-A	SAME AS 256	&257	0.0	0.0	0	0	0	0	0	0	
258-B	BUCK	PAUL	16.7	12.5	8	0	0	0	9	0	
259	JOHN	RICHARD	9.9	9.5	0	10	0	0	0	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
260	DESCHINE	HELEN	10.0	6.8	0	0	0	0	10	0	
261	SHAGGY	KEE Y.	8.4	8.4	2	0	0	0	6	0	
262	BEGAY	LILLIAN C.	2.7	2.7	3	0	0	0	0	0	
262-A	JACKSON	LULA ANN	3.2	3.2	0	0	1	1	0	0	
263	SHAKEY	ROBERT	8.0	8.0	2	3	0	0	3	0	
263-A	HAY	JOHN	6.5	6.5	0	0	0	0	6	0	
264	BEGAY	LUKE S.	12.0	11.9	3	7	0	0	2	0	
265	YAZZIE	INA	9.2	8.5	4	0	0	0	5	0	
266	THOMAS	DAISY	10.1	10.1	0	0	0	0	10	0	
267	YABENY	ELLA	10.0	8.9	0	0	0	0	10	0	
268	BEGAY	DAVID C.	9.8	9.5	9	0	1	0	0	0	
269	SANDOVAL	IDA M. &	9.7	9.4	6	0	0	0	3	0	
270	BENALLY	DONALD &	10.0	10.0	0	0	0	10	0	0	
271	BEGAYE	ALBERT D.&	12.5	7.2	2	0	0	0	10	0	
272	YAZZIE	LARRY & R.	16.7	15.7	6	0	0	0	10	0	
273	HAYES	PERRY	12.5	9.7	0	10	2	0	0	0	
273-A	SLOWMAN	ELWOOD	4.8	4.8	0	5	0	0	0	0	
274	PHILLIPS (T)	NELLIE	9.5	7.1	2	1	0	0	6	0	
275	JOHN	RAYMOND E.	9.9	9.9	0	6	0	0	4	0	
276	LEE	CALVIN & W	7.3	7.3	0	7	0	0	0	0	
276-A	SHORTY	ALICE	1.6	1.6	0	0	2	0	0	0	
277	REDSHIRT	JIMMIE & S	9.8	8.6	0	0	0	10	0	0	
278	BOY	JAMES B.	11.5	11.2	3	5	0	0	3	0	
279	RUSSELL	MARY L.	12.3	12.3	6	0	0	0	6	0	
280	JOHN	JIM & LENA	10.1	7.5	0	0	0	10	0	0	
281	JOHN	JIM & LENA	7.9	7.9	0	0	0	8	0	0	
282	JOHN	JIM & LENA	4.0	4.0	0	0	0	4	0	0	
282-A	O'JAY	DONALD & B	6.4	6.4	0	0	0	6	0	0	
283	BEGAY	VESTA J.	10.0	10.0	0	0	0	5	5	0	
284	JOHN	BILLY	10.0	10.0	2	0	3	5	0	0	
285	HILLGARTNER	LUCILLE M.	9.6	9.0	0	0	0	6	3	0	
286	PETE	SAMUEL	9.1	9.1	3	0	0	6	0	0	
287	BLUEHOUSE	RICHARD &R	9.9	9.9	0	0	0	10	0	0	
288	BARNEY	VICTOR & N	12.2	12.2	0	0	0	12	0	0	
289	REID	AMY E.	11.1	11.1	1	8	0	0	2	0	
290	SANISYA (T)	ZARAH	9.9	9.8	0	0	0	0	10	0	
291	JACKSON	ABNER & R.	10.1	10.1	4	6	0	0	0	0	
292	PAUL	TOM LEE	10.4	9.2	2	6	0	0	2	0	
293	BEGAY	JOHNNY C.	10.6	10.1	0	7	0	0	0	3	
294	TSO	JUANITA J.	10.0	10.0	2	0	0	8	0	0	
295	DAYISH	FRANKLIN J	9.4	9.4	0	0	0	9	0	0	
296	DAYISH	FRANKLIN J	11.4	11.4	0	0	0	0	11	0	
297	MANYGOATS	MARY A.	9.9	9.1	0	5	0	5	0	0	
298	BEGAY	JIMMY	10.8	10.0	0	0	0	0	0	5	HOMESITE NF
299	BUCK	HERMAN & K	13.8	11.7	0	0	0	0	0	13	
300	DIXON	WOODROW	9.6	3.5	0	0	0	0	0	9	
301	NELSON	THELMA & B	21.8	11.6	0	0	0	0	22	0	
302	YELLOWHAIR	ROBERT	8.0	8.0	4	0	0	0	4	0	
303	BENALLY	KENNETH L.	9.4	9.4	0	0	0	0	9	0	
304	ALFRED	ROSE & E.S	7.0	7.0	0	0	0	0	7	0	
305	BEGAY	TOMMY C.	11.7	8.0	0	0	0	11	0	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
305-A	DUNCAN	MARIE	6.9	6.9	0	0	0	0	0	7	
305-B	JOHN	TOM	4.4	4.4	0	0	0	0	0	4	
306	JOHN	TOM	9.6	8.7	2	0	0	8	0	0	
307	PAUL	GERALDINE	10.7	10.3	2	5	0	0	3	0	
308	BROWN	IRENE &L.B	10.1	10.1	0	6	0	4	0	0	
309	BEGAY (T)	TOMMY C.	7.1	7.1	0	0	0	0	7	0	
310	BENALLY	WILLIE J.	9.6	9.6	0	6	0	0	4	0	
311	DALE	MAUDE E.	11.9	11.0	2	0	2	3	5	0	
312	LEE	MORGAN JOE	9.8	8.2	0	0	0	0	10	0	
313	NORTON	ALICE	9.6	9.6	2	5	0	0	2	0	
314	LEE	MARY ANN	10.9	4.6	0	0	0	0	11	0	
315	DUNCAN	FRANK	10.6	10.6	0	0	0	0	10	0	
316	SLOWMAN	SARAH D.	7.0	7.0	2	5	0	0	0	0	
317	BEGAY	TOMMY C &E	11.5	10.5	0	11	0	0	0	0	
318	ATCITTY	DANIEL H.	15.5	12.8	4	11	0	0	0	0	
319	SHORTHAIR	JOHNSON &B	11.3	11.3	2	9	0	0	0	0	
320	HILL	EDDIE	9.5	4.6	0	9	0	0	0	0	
321	GEORGE	PHILLIP	3.4	2.7	0	0	0	0	3	0	
322	BEN (T)	CALVIN	11.0	9.5	0	0	0	0	11	0	
323	BEN (T)	CALVIN	0.0	0.0	0	0	0	0	0	0	
324	LEE	CALVIN	12.0	12.0	0	0	0	0	0	0	FLOOD DESTROYED
325	LEE	CALVIN	0.0	0.0	0	0	0	0	0	0	FLOOD DESTROYED
326	BROWN	IRVIN D.	28.0	28.0	0	0	0	0	0	0	
E-7-A	MAILMAN	DAVID	25.0	25.0	0	0	0	0	0	25	
A2/1	SEAGGY	ROGER	39.1	39.1	0	25	0	0	14	0	
A2/2	BENJAMIN	JONES	14.0	14.0	0	14	0	0	0	0	
A2/3	LEWIS	JOHN	8.9	8.0	2	5	1	0	1	0	
A2/4	HARRISON	NEENA	10.9	10.9	2	7	2	0	0	0	
A2/5	HUNT	CALVIN	6.8	6.8	2	5	0	0	0	0	
A2/6	HUNT	HOSKIE	6.0	6.0	1	4	1	0	0	0	
A2/7	HUNT	ROBERT	9.7	9.7	2	8	0	0	0	0	
A2/8	JOHNSON	ROSELINE	8.5	8.5	0	8	0	0	0	0	
130	LEASE		74.0	74.0	7	8	0	8	51	0	
130-A	LEASE		63.0	63.0	0	0	0	0	63	0	
131	LEASE		121.0	121.0	25	0	0	0	96	0	
AREA 1	UNIT 1	SOUTH	23.7	23.7	0	3	0	0	21	0	
AREA 1	UNIT 1	NORTH	152.0	152.0	18	68	9	0	57	0	
AREA 3	UNIT 3		121.0	121.0	50	25	0	0	47	0	
AREA 3	UNIT 4		123.0	123.0	10	0	0	0	113	0	
AREA 3	UNIT 5		113.0	105.0	15	20	0	0	70	0	
AREA 3	UNIT 6		160.0	120.0	0	0	0	0	0	120	
AREA 3	UNIT 7-B		99.0	99.0	10	50	0	0	39	0	
AREA 4	UNIT 8		183.0	96.0	0	0	0	0	96	0	
AREA 4	UNIT 9		139.0	100.0	0	0	0	20	80	0	
AREA 5			195.0	186.0	0	0	0	0	186	0	
AREA 7			2011.0	1850.0	0	0	0	0	0	1850	
150-C	LEASE		193.0	155.0	30	78	0	0	0	47	
		TOTALS	9223.4	8286.1	692	1298	74	481	3453	2565	

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
1-0	FREDY	JOHN	28.0	28.0	5	22	1	0	0	0	
AND	BEGAY	ROY F.	0.0	0.0	0	0	0	0	0	0	
2-0	BENALLY	CHEE	13.6	9.4	0	9	0	0	0	0	
AND	BENALLY	MARY A.	0.0	0.0	0	0	0	0	0	0	
3-0	HOGUE	ROBERT	12.3	12.3	0	0	0	0	0	0	
AND	HOGUE	VIRGINIA	0.0	0.0	0	0	0	0	0	0	
4-0	DICKEY	WILFRED	15.9	10.2	0	0	0	0	0	0	
4-1	BILLY	OSCAR	2.6	1.6	0	0	0	0	0	0	
AND	BILLY	MELVIN	0.0	0.0	0	0	0	0	0	0	
5-0	JOE	ELIZABETH	3.0	3.0	0	0	0	0	0	0	
6-0	BARBER	MARIE &SAM	6.8	6.8	2	5	0	0	0	0	
7-0	RAYMOND	EDWARD R.	81.7	42.2	0	20	0	22	0	0	COMBINE 7-0/8-0/8-1
8-0	RAYMOND	EDWARD R.	0.0	0.0	0	0	0	0	0	0	
8-1	RAYMOND	EDWARD R.	0.0	0.0	0	0	0	0	0	0	
8-2	PESATA	IRENE	9.5	0.0	0	0	0	0	0	0	
9-0	BATES	CLAUDE H.	6.9	4.9	0	5	0	0	0	0	
1	GOLBE	JERRY SR.	17.2	17.2	3	14	0	0	0	0	COMBINE 1 & 1-A
1-A	GOLBE	JERRY SR.	0.0	0.0	0	0	0	0	0	0	
2	GOLBE	ROBERT SR.	11.0	9.8	0	6	0	4	0	0	
2-A	BATES	CLAUDE H.	16.6	3.0	0	3	0	0	0	0	
3	GOLBE	RICHARD	14.5	6.6	1	6	0	0	0	0	
AND	GOLBE	MARY ALICE	0.0	0.0	0	0	0	0	0	0	
4	SEE # 1		0.0	0.0	0	0	0	0	0	0	COMBINE W/1 & 1-A
5	BARBER	JOHN	8.6	8.6	0	8	0	0	0	0	
6	BARBER	ROGER	9.5	9.2	0	9	0	0	0	0	
7	HOGUE	MAE ALICE	5.5	5.5	0	3	0	3	0	0	
8	HOWARD	RAYMOND	10.5	5.2	0	0	0	5	0	0	
9	SMITH	DAN	12.0	12.0	3	9	0	0	0	0	
10-E	HOWARD	RAYMOND	3.8	3.8	0	0	0	3	0	0	
10-W	BARBER	FRANKLIN	3.3	3.3	0	3	0	0	0	0	
11	CURLEY	KATHERINE&	15.7	12.2	2	10	0	0	0	0	11 & 12 COMBINE
AND	WHITE	PASQUELITA	0.0	0.0	0	0	0	0	0	0	
12	CURLEY	KATHERINE&	0.0	0.0	0	0	0	0	0	0	
AND	WHITE	PASQUELITA	0.0	0.0	0	0	0	0	0	0	
13	MILLER	THELMA	16.6	16.3	3	13	0	0	0	0	
14	IN PLOT 12		0.0	0.0	0	0	0	0	0	0	
15	BUCK	HOBERT	9.1	8.8	1	7	1	0	0	0	
16	JONES	HERMAN	8.6	8.6	3	5	1	0	0	0	
AND	JONES	JIMMY	0.0	0.0	0	0	0	0	0	0	
17	JIM	CHARLES	9.1	9.1	2	7	0	0	0	0	
AND	JIM	CLYDE C.	0.0	0.0	0	0	0	0	0	0	
18	SMITH	HENRY	7.0	5.7	1	5	0	0	0	0	
19	SMITH	HENRY	7.3	3.7	0	2	1	0	1	0	
20	SMITH (T)	KENNETH	9.3	9.2	9	0	0	0	0	0	
21	BARBER	MARGARET	12.6	12.6	1	11	0	0	0	0	
AND	DODGE	MARLENE	0.0	0.0	0	0	0	0	0	0	
22	BEKIS	RENA	11.9	11.0	3	5	0	0	2	0	
23	MORGAN	ANITA	10.5	10.5	3	5	0	0	3	0	
24	NEZ	TONY	11.0	6.3	3	0	0	0	3	0	
AND	NEZ	VIOLA	0.0	0.0	0	0	0	0	0	0	
24	YELLOWMAN	ROSE A.	18.2	13.9	6	7	0	0	2	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
25	ARTHUR	GRACE B.	13.6	9.7	4	4	0	0	2	0	
			0.0	0.0	0	0	0	0	0	0	
26	MAX	ALICE	5.8	5.1	0	0	0	0	5	0	
AND	MAX	TOM	0.0	0.0	0	0	0	0	0	0	
27	YAZZIE	ETHEL P.	12.1	10.4	0	10	0	0	0	0	
28	BEYALE	IKE	10.0	9.9	0	10	0	0	0	0	
29	DECKER	RUBEN S.	8.4	6.3	4	0	0	0	2	0	
30	HARRISON	RAMSEY	13.6	11.1	3	7	1	0	0	0	
31	SHORTHAIR	JEAN	18.2	18.2	0	18	0	0	0	0	
AND	BEDONIE	GERTRUDE	0.0	0.0	0	0	0	0	0	0	
32	WHITE	JERRY	10.0	10.0	2	8	0	0	0	0	
AND	WHITE	HAZEL	0.0	0.0	0	0	0	0	0	0	
33	JIM	DICK	9.1	9.1	0	5	1	0	3	0	
34	MARTINEZ	WILLIE H.	8.6	8.6	1	8	0	0	0	0	
35	SMITH	JAMES	6.3	6.3	2	2	0	0	0	0	
36	JOHN	ELIZABETH	10.5	10.5	4	6	0	0	0	0	
37	LEE	WILLIAM	9.5	9.5	0	5	0	0	4	0	
38	BEHALLY	JIMMIE	10.7	10.7	5	6	0	0	0	0	
39	BEHALLY	JIMMIE A.	8.9	8.2	3	0	0	5	0	0	
40	HARWOOD	HARVEY JR	10.3	10.3	4	6	0	0	0	0	
41	DESCHILLIE	JEROME	8.6	8.6	0	8	1	0	0	0	
42	FORD	ANDREW	7.7	7.7	3	5	0	0	0	0	
43	[illegible]	[illegible]	9.1	9.1	1	2	1	0	5	0	
AND	JIM	WILSON C	0.0	0.0	0	0	0	0	0	0	
44	YAZZIE	BERNICE	8.4	8.4	1	7	0	0	0	0	
45	JOHN	WILBERT JR	12.3	12.3	3	9	0	0	0	0	
46	BURBE	EMMA G.	4.6	4.6	0	5	0	0	0	0	
AND	BURBE	PATRICK	0.0	0.0	0	0	0	0	0	0	
47	WILLIE	HERBERT	7.5	7.5	0	6	0	0	2	0	
48	DENNISON	ERNEST	8.5	8.0	1	7	0	0	0	0	
AND	DENNISON	SANDRA	0.0	0.0	0	0	0	0	0	0	
49	SAN JUAN	HELEN	12.3	12.3	0	0	0	0	3	9	
50	TESWOOD	RAY & MARY	9.1	9.1	3	6	0	0	0	0	
51	WILLIE	MARIE M.	11.3	8.8	2	7	0	0	0	0	
52	BEGAY	MOLLY	9.5	6.8	1	6	0	0	0	0	
AND	TSO	RAYMOND	0.0	0.0	0	0	0	0	0	0	
53	KING	AARON	10.1	10.1	3	2	0	5	0	0	
54	WILLIE	MARY	12.5	12.5	3	5	0	0	5	0	
54-A	WILLIE	HERBERT	2.8	1.1	1	0	0	0	0	0	
55	WILLIE	MARY	2.8	1.1	0	1	0	0	0	0	
56	SMITH	KENNETH	10.1	10.1	2	8	0	0	0	0	
57	LONG	NELLIE	7.0	7.0	0	7	0	0	0	0	
58	HARWOOD	TOM	2.7	1.8	0	2	0	0	0	0	
59	HOSKIE	ANNIE MAE	7.2	7.2	2	4	1	0	0	0	
60	COMBINED W/	PLOT 65	0.0	0.0	0	0	0	0	0	0	
61	JOHNSON	CARL	8.4	8.0	0	0	0	8	0	0	
62	BEHALLY	HARRISON	7.2	7.2	4	3	0	0	0	0	
AND	JOHNSON	DENTON	0.0	0.0	0	0	0	0	0	0	
63	JAMES	HARRY	7.0	7.0	6	0	0	0	1	0	
64	PIOCHE	ISABEL	11.8	9.5	0	0	0	0	10	0	
65	JOHN	PHILLIP	19.0	19.0	0	19	0	0	0	0	

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AND	BOWMAN	JOHNNIE SR	0.0	0.0	0	0	0	0	0	0	
66	HARWOOD	HARVEY	14.2	14.2	4	10	0	0	0	0	
66-A	OPEN		0.0	0.0	0	0	0	0	0	0	
67	HARWOOD	HARVEY	6.2	6.2	0	6	0	0	0	0	
68	DOBEY	EARL &ROSE	4.8	4.8	1	2	0	2	0	0	
69	PIOCHE	ALICE	10.1	10.1	0	10	0	0	0	0	
70	BENALLY	FLOYD S.	12.5	10.8	7	0	0	4	0	0	
71	JOHN	EMERSON	14.7	14.7	1	12	2	0	0	0	
AND	JOHN	NELSON	0.0	0.0	0	0	0	0	0	0	
72	LUJAN	LUCY M.	11.4	11.4	0	6	0	2	3	0	
73	NAKAI	GLENN	12.8	12.8	4	9	0	0	0	0	
74	PETER (T)	JAMES	8.6	6.8	0	6	1	0	0	0	
75	JIM	BILLY JOE	12.3	11.6	5	7	0	0	0	0	
76	COMBINED W/	PLOT 75	0.0	0.0	0	0	0	0	0	0	
77	BOWMAN	JIM & JANE	24.1	21.6	3	14	0	0	5	0	
78	HARRIS	ALICE	12.3	12.3	0	5	0	0	7	0	
79-N	WILLIE	GILBERT D.	8.1	8.1	0	0	0	5	3	0	
79-S	MASON	JAMES	7.3	7.3	0	6	1	0	0	0	
80	BENALLY	DAVID	14.2	12.6	5	8	0	0	0	0	
AND	BENALLY	BESSIE	0.0	0.0	0	0	0	0	0	0	
81	BEN	LEE SR.	14.2	12.1	3	7	0	2	0	0	
82	HARRIS	ROBERT	5.6	5.6	0	5	0	0	1	0	
83	GLEASON	JOHN	14.3	14.3	5	3	0	3	0	0	
84	BENALLY	MARY	13.3	13.3	3	5	0	0	5	0	
85	BEGAY	JACK	11.6	10.2	2	8	0	0	0	0	
86	HARVEY	JOHN	14.2	14.2	2	3	1	6	3	0	
87	COMBINED W/	PLOT 86	0.0	0.0	0	0	0	0	0	0	
88	JIM	IRENE	9.8	8.9	0	0	0	5	4	0	
89	BARBER	LOUISE R.	12.2	9.7	1	0	0	3	6	0	
AND	PALMER	ELOUISE	0.0	0.0	0	0	0	0	0	0	
89-A	YAZZIE	JIMMY	2.0	2.0	0	2	0	0	0	0	
90	HARWOOD	TOM	15.0	13.2	0	6	0	7	0	0	
91	CLANI	MINNIE	8.9	8.9	0	9	0	0	0	0	
92	COLLINS	REBO	7.8	7.2	0	0	0	0	8	0	
93	COLLINS	MABLE	9.2	5.9	0	0	0	0	9	0	
94	COLLINS	WALLACE	10.6	10.6	0	10	0	0	0	0	
95	HENDERSON	SAM	15.4	14.2	1	7	0	0	6	0	
AND	HENDERSON	ANITA M.	0.0	0.0	0	0	0	0	0	0	
96	PALMER	LARRY	6.2	6.2	2	3	1	0	0	0	
97	WHITMAN	KENNETH	10.7	10.7	0	11	0	0	0	0	
AND	SILVERSMITH	TEDDY	0.0	0.0	0	0	0	0	0	0	
98	BEGAY	JEAN W.	10.7	10.7	0	0	0	5	6	0	
99	PALMER	IVAN	14.8	14.8	5	0	0	10	0	0	
100	PALMER	ERNEST	15.5	12.6	1	0	1	11	0	0	
101	MASON	YAZZIE	13.6	10.5	1	8	1	0	1	0	
AND	MASON	ALICE	0.0	0.0	0	0	0	0	0	0	
102	BEGAY	BERNICE A.	6.7	6.7	0	3	0	0	4	0	
103	SIMPSON	GLENN	7.5	7.5	1	0	0	0	7	0	
104	MIKE	TOMMIE	15.4	15.4	0	5	0	0	10	0	
AND	MIKE	MILDRED	0.0	0.0	0	0	0	0	0	0	
105	ZOHNIE	THEODORA J	10.0	10.0	1	8	1	0	0	0	

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106	FRANCISCO	MELVIN	10.8	10.8	0	0	0	0	11	0	
106	JOHNSON	KATHRYN	12.0	12.0	0	0	0	0	12	0	
106	DEE	JOHN N. JR	11.5	11.5	0	0	0	0	0	11	
AND	DEE	ADELLA	0.0	0.0	0	0	0	0	0	0	
106-A	SIMPSON	GLENN	9.4	9.4	2	0	0	0	7	0	
106-B	LOWE	JERRY	12.0	12.0	0	0	0	9	3	0	
AND	LOWE	ARTHUR	0.0	0.0	0	0	0	0	0	0	
107	NO FILE		0.0	0.0	0	0	0	0	0	0	
108-N	MASON	HARRY	9.4	9.4	0	0	0	0	9	0	
108-S	MASON	HARRY	9.4	8.5	0	4	0	0	5	0	
109-N	NO PERMIT	ISSUED	11.5	11.5	0	0	0	0	0	12	
109-S	MASON	JOHN	11.0	10.0	0	7	0	3	0	0	
110	BEGAY	JACK	4.0	4.0	0	0	0	0	4	0	
111	ANDERSON	PAUL	10.5	9.0	2	7	0	0	0	0	
AND	ANDERSON	MARIAN	0.0	0.0	0	0	0	0	0	0	
112	PETE	RAYMOND	7.4	7.4	0	7	0	0	0	0	
113	CURTIS	MARTHA	4.3	3.8	0	4	0	0	0	0	
114	HARRIS	PAUL	4.0	2.9	0	3	0	0	0	0	
115	TESWOOD	BESSIE P.	5.8	5.8	2	4	0	0	0	0	
AND	TESWOOD	WILLIE	0.0	0.0	0	0	0	0	0	0	
115-A	BEHALLY	VERDA M.	3.0	3.0	0	0	0	0	3	0	
115-B	DRAPER	TOMMY	2.8	2.0	0	2	0	0	0	0	
AND	DRAPER	LAURA	0.0	0.0	0	0	0	0	0	0	
116	HATCH	VIRGINIA	2.5	2.5	1	1	0	0	0	0	
117	NO PLOT		0.0	0.0	0	0	0	0	0	0	
118	NO PLOT		0.0	0.0	0	0	0	0	0	0	
119	NO PLOT		0.0	0.0	0	0	0	0	0	0	
120	NO PLOT		0.0	0.0	0	0	0	0	0	0	
121	DISMOOD	BEATRICE	28.3	25.3	2	16	1	13	0	0	
AND	DISMOOD	WOODY JR.	0.0	0.0	0	0	0	0	0	0	
122	CURLEY	ORA LEE	10.3	10.3	1	0	0	0	0	9	
123	YAZZIE	JAY SR.	16.7	12.9	0	0	0	0	13	0	
124-A	NAKAI	BERNARD	9.3	9.3	0	0	0	0	9	2	.09 NF/.08 HOMESITE
AND	NAKAI	LOUISE	0.0	0.0	0	0	0	0	0	0	
125	NAKAI	THOMAS	11.0	6.4	1	4	1	0	0	0	2 NF
126	CHARLES	DAVID	6.7	6.7	1	5	1	0	0	0	2.8 NON-FARMLAND
127	YAZZIE	JAY SR.	9.5	9.5	3	0	0	0	6	1	
128	YAZZIE	PHILLIP	11.4	9.4	1	0	0	8	0	0	2 HOMESITE
129	DODGE	MARY	2.9	1.7	0	0	0	3	0	0	
129	DODGE	MARY	5.7	5.7	2	0	0	3	0	0	
130	WATSON	JONAS	7.7	7.7	2	0	1	0	5	0	
131	DODGE	JOHN EVAN	11.0	10.3	3	3	1	0	0	0	3 NF
132	NOT USED		0.0	0.0	0	0	0	0	0	0	
133	NO INFO		0.0	0.0	0	0	0	0	0	0	
134	DRAPER	FREDDIE	10.5	10.5	1	8	1	0	0	0	
AND	DRAPER	LOUISE	0.0	0.0	0	0	0	0	0	0	
135	DAN	JAMES	9.8	7.7	0	7	0	0	0	0	
135-O	SIMPSON	BOB	2.1	2.1	0	0	0	0	0	0	2 NF
136	YAZZIE	BARNABAS	5.1	5.1	0	0	0	0	5	0	
AND	YAZZIE	THOMAS	0.0	0.0	0	0	0	0	0	0	
137	DAN	LEONARD	7.3	5.1	2	3	0	0	0	0	2 NF

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AND	DAN	CECELIA	0.0	0.0	0	0	0	0	0	0	
137	WILSON	JOHN P.	5.3	5.3	3	0	1	0	0	0	
AND	WILSON	LORRAINE A	0.0	0.0	0	0	0	0	0	0	
138	SIMPSON	JESSIE	12.1	12.1	3	5	1	3	0	0	.7 NF
139	JOHNSON	MORRIS	12.5	11.7	1	0	1	0	10	0	.8 HOMESITE
AND	JOHNSON	MARTHA T.	0.0	0.0	0	0	0	0	0	0	
140	SIMMS	IDA M.	11.7	11.7	0	10	0	0	0	1	
141	FRANK	HARRY	10.4	10.4	1	0	0	0	6	0	1 NF
142	SEE PLOT 141		0.0	0.0	0	0	0	0	0	0	
143	SMALLCANYON	WILDER JR.	7.2	6.8	0	0	0	0	7	0	
AND	SMALLCANYON	MARIE	0.0	0.0	0	0	0	0	0	0	
144	PETE	BURKE	12.2	11.9	0	12	0	0	0	0	
145	DOES NOT EXI	ST	0.0	0.0	0	9	0	3	0	0	13 NF
146	JOHNSON	TOM J.	11.8	9.3	1	0	1	7	2	0	1.3 NON FARMLAND
AND	JOHNSON	ROSALYN J.	0.0	0.0	0	0	0	0	0	0	
147	BENNIE	DOREEN	4.7	4.3	0	0	0	0	0	4	.4 HOMESITE
148	NEZ	JIMMY	13.0	11.9	1	9	0	0	2	0	1 NF
149	LOWE	CARMELITA	9.2	7.7	1	6	0	0	1	0	1 HOMESITE
AND	LOWE	LARRY A.	0.0	0.0	0	0	0	0	0	0	
150	SIMS	STANLEY	9.2	9.0	1	6	2	0	0	0	
151	DODGE	ANNIE B	11.9	11.2	1	9	0	2	0	0	
152	DRAPER	FREDDIE A.	24.0	7.6	1	2	1	0	13	4	2 NF
153	OPEN		0.0	0.0	0	0	0	0	0	0	
154	HARVEY	WALTER	28.1	25.4	4	21	0	0	0	2	
154-A	YELLOWMAN	LORENE	7.2	5.6	4	0	2	0	2	0	
155	INCLUDED IN	PLOT 154	0.0	0.0	0	0	0	0	0	0	
156	MOFFITT	EVA	13.2	13.0	3	7	1	2	0	0	
157	YELLOWMAN	LUCY	16.8	16.2	2	7	2	0	0	0	.2 NF
157-A	JACKSON	HENRY T.	2.6	2.3	0	0	0	0	0	2	
158	BENNALLEY	LUCINDA	3.2	3.2	0	3	0	0	0	0	
AND	BENNALLEY	ERNEST	0.0	0.0	0	0	0	0	0	0	
159	OPEN		0.0	0.0	0	0	0	0	0	0	
160	YELLOWMAN	LILLIE	8.3	8.3	0	3	0	0	0	5	
161	JOHNSON	TOM J.	3.8	3.8	0	0	0	0	4	0	
AND	JOHNSON	ROSALYN	0.0	0.0	0	0	0	0	0	0	
162	OPEN		0.0	0.0	0	0	0	0	0	0	
163	JOHNSON	TOM J.	14.0	14.0	0	14	0	0	0	0	
AND	JOHNSON	ROSALYN	0.0	0.0	0	0	0	0	0	0	
164	SEE PLOT NO.	163	0.0	0.0	0	0	0	0	0	0	
165	HARVEY	ROSE M.	11.8	10.5	0	8	0	0	3	0	
166	YELLOWMAN	GARY W.	11.7	11.7	0	9	0	0	0	3	
166-A	YELLOWMAN	GEORGE	13.7	12.1	4	5	1	0	0	2	
166-A	YELLOWMAN	GEORGE	0.0	0.0	0	0	0	0	0	0	
167	YELLOWMAN	GEORGE	17.9	8.2	0	0	0	5	0	10	
168	YAZZIE	HARRY	7.4	6.5	0	4	0	0	0	3	
AND	YAZZIE	ALICE	0.0	0.0	0	0	0	0	0	0	
169	ALLEN	JOE CLYDE	4.0	3.7	0	3	0	0	0	2	
170	YAZZIE	HARRY	9.4	9.4	0	9	0	0	0	0	
AND	YAZZIE	ALICE	0.0	0.0	0	0	0	0	0	0	
171	BREWSTER	MARY CHEE	5.1	4.5	1	4	0	0	0	0	.5 NF
172	SIMPSON	BUSTER	6.4	4.1	0	0	0	2	0	5	

FRUITLAND IRRIGATION PROJECT

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
AND	SIMPSON	LUCY	0.0	0.0	0	0	0	0	0	0	
173	ALFRED	GLEN	5.5	4.0	1	1	2	0	0	0	1 NF
AND	ALFRED	ROSEMARY	0.0	0.0	0	0	0	0	0	0	
174	DODGE	JIMMIE	13.0	11.5	4	9	0	0	0	0	
AND	DODGE	CAROLINE	0.0	0.0	0	0	0	0	0	0	
175	ALFRED	GLEN	9.5	9.1	0	0	0	5	0	0	
AND	ALFRED	ROSEMARY	0.0	0.0	0	0	0	0	0	0	
176	YAZZIE	MARY	6.2	6.2	0	0	0	6	0	0	
177	GREY EYES	ROGER	21.1	20.6	0	18	0	3	0	0	
178	SIMS	JOE & IDA	18.0	18.0	1	3	0	0	14	0	
178-A	BEGAY	CUSTER S.	10.8	10.8	1	4	0	0	5	0	
179 ??	GREYHORSE	GUY	0.0	0.0	0	0	0	0	0	0	
180	BEGAY	JESS C.	17.7	17.7	0	11	0	0	2	4	
AND	DUNCAN	MARTIN	0.0	0.0	0	0	0	0	0	0	
181	BEGAY	WILBERT C.	20.5	18.3	1	7	0	0	7	4	1 HOMESITE
182	BRADLEY	IDA C.	9.5	9.5	3	0	0	0	2	4	
182-A	ELTSOSIE	EVA C.	6.0	6.0	3	0	0	0	3	0	
182-B	PETE	FRANCIS	12.5	12.5	0	0	0	12	0	0	
AND	PETE	IRENE	0.0	0.0	0	0	0	0	0	0	
183	BUNNY	JACKSON	10.0	10.0	4	7	0	0	0	0	
184	YAZZIE	JAY SR.	18.4	18.4	0	18	0	0	0	0	COMBINE W/185 & 186
185	COMBINE W/	PLOT #184	0.0	0.0	0	0	0	0	0	0	
186	YAZZIE	WILSON	0.0	0.0	0	0	0	0	0	0	
187	NO INFO		0.0	0.0	0	0	0	0	0	0	
188	HARRY	IRENE B.	7.8	7.8	1	4	2	0	0	0	
189	TABE	MATILDA A.	6.9	6.1	0	0	0	4	0	3	
190	HENRY	WILLIE B.	11.0	11.0	3	3	0	1	4	0	
AND	HENRY	MABLE	0.0	0.0	0	0	0	0	0	0	
191	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
192	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
193	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
194	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
195	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
196	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
197	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
198	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
199	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
200	YAZZIE	ALICE	7.2	4.2	0	0	0	0	0	0	
201	BROWN	ERNEST	9.1	12.6	2	0	0	0	7	0	
202	NEZ	LEWIS	21.0	19.2	0	5	0	0	13	3	
203	ANDERSON	JULIA DALE	13.2	10.1	4	5	2	0	2	0	
203-A	SHIELDS	SARAH	17.5	17.5	0	0	0	0	0	17	
203-B	ANDERSON	JULIA DALE	7.1	2.8	0	0	0	0	3	0	
204	BENALLY	HOSTEEN N.	9.2	9.2	0	0	0	9	0	0	
205	EDWARDS	FRANK	11.2	11.2	1	3	3	0	4	0	
206	HARRIS	ANNIE	12.3	12.3	6	3	0	0	3	0	
207	BILLEY	MATILDA T.	11.1	11.1	0	4	0	0	7	0	
208	IGNACIO	DAVIS	9.8	9.8	3	0	0	0	7	0	
AND	IGNACIO	MARIA	0.0	0.0	0	0	0	0	0	0	
209	RUSSELL	PETER	11.0	7.4	6	2	0	0	0	0	
210	BLUEEYES	FAYE	13.8	13.8	7	0	0	0	7	0	

UTILIZATION/CROP SURVEY

FRUITLAND IRRIGATION PROJECT

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
211	CHARLEY	BETTY	15.6	15.6	4	5	0	0	7	0	
212	TSO	JOHN PAUL	11.8	11.8	4	3	0	1	3	1	
213	JOE	GEORGE	11.4	11.4	3	4	0	0	4	0	
214-N	EDWARDS	FRANK	10.1	10.1	8	2	0	1	0	0	
214-S	BILLY	WILFRED E.	8.0	8.0	1	7	0	0	0	0	
215	BLUEEYES	HOWARD	2.6	2.6	2	0	0	4	0	0	
216	OPEN		0.0	0.0	0	0	0	0	0	0	
217	OPEN		0.0	0.0	0	0	0	0	0	0	
218	COMBINED W/	PLOT 221	0.0	0.0	0	0	0	0	0	0	
219	COMBINED W/	PLOT 221	0.0	0.0	0	0	0	0	0	0	
220	BEGALLY	HOSTEEN W.	12.6	12.6	0	0	0	0	0	12	
AND	HARVEY	MARY ROSE	0.0	0.0	0	0	0	0	0	0	
221	HOGUE	ROBERT	33.0	20.5	7	0	0	10	3	13	
222	HOUSER	DAISY A.	11.6	11.6	4	0	1	0	7	0	
223	LEYBA	KAYO R.	15.0	10.3	3	0	0	0	3	9	
224	CLY	HARRISON	10.6	10.4	0	0	0	0	10	0	
AND	CLY	HELEN	0.0	0.0	0	0	0	0	0	0	
225	HARRIS	FRANK	10.1	10.8	0	10	0	0	0	0	
226	BLUEEYES	JANE	7.6	7.6	0	7	0	0	0	0	
227	PALMER	BUSTER	9.6	9.6	6	3	0	0	1	0	
228	TACHENE	ALFRED	8.5	8.5	2	7	0	0	0	0	
229	YAZZIE	RAY	10.2	5.2	0	5	0	0	0	0	5 NF
230	THOMPSON	HANNAH	9.7	9.7	0	5	0	5	0	0	
231	DISE	ESTHER	7.4	7.4	0	7	0	0	0	0	
AND	JIM (T)	ANNIE	0.0	0.0	0	0	0	0	0	0	
232	MITCHELL	CHEE	5.5	5.5	0	6	0	0	0	0	
233	JOHN	BILLIE	10.1	10.3	0	10	0	0	0	0	
234	BEGALLY	JOHN HARRY	10.6	10.6	0	0	0	0	11	0	
235	JOE	ELIZABETH	10.5	10.5	2	6	0	0	2	0	
236	SHERMAN	ROGER	9.6	9.6	2	3	5	0	0	0	
237	HARRIS	EDWARD SR.	10.6	10.6	1	7	0	0	3	0	
238	SHIELDS	FREDDIE	11.3	11.3	0	11	0	0	0	0	
AND	SHIELDS	SARAH	0.0	0.0	0	0	0	0	0	0	
239	FOSTER	WILLIAM	10.5	10.5	1	9	0	0	0	0	
AND	FOSTER	ANNA	0.0	0.0	0	0	0	0	0	0	
240	BARBER	ANNA C.	10.0	10.0	0	0	0	10	0	0	
AND	BARBER	ROY JR.	0.0	0.0	0	0	0	0	0	0	
241	EATON	ALFRED	10.0	10.0	0	0	0	10	0	0	
AND	EATON	REBECCA	0.0	0.0	0	0	0	0	0	0	
242	JOHNSON	ELEANOR	10.1	8.8	0	0	0	9	0	0	
243	LAMONE	EDITH (T)	10.0	9.0	0	9	0	0	0	0	
244	BALINTHLANNI	JACK	29.8	26.5	1	25	0	0	1	0	
AND	BALINTHLANNI	ALICE	0.0	0.0	0	0	0	0	0	0	
245	SEE PLOT#244		0.0	0.0	0	0	0	0	0	0	
246	SEE PLOT#244		0.0	0.0	0	0	0	0	0	0	
247	HOSTEEN	ANNIE	10.5	9.7	4	0	0	0	6	0	
248	BLUEYES	MARY	10.6	10.6	1	4	0	0	5	0	
249	BARBER	ROY SR.	15.6	14.6	4	11	0	0	0	0	
AND	BARBER	HAZEL	0.0	0.0	0	0	0	0	0	0	
250	HUBBARD	NETTIE	12.1	12.1	1	11	0	0	0	0	
250-A	GORMAN	ELLISON	5.0	5.0	0	0	0	0	0	0	IN PLOT #250

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
251	BRADLEY	RAYMOND	8.2	7.5	3	4	1	0	0	0	
252	REDHORSE	LEONARD	21.6	18.8	0	19	0	0	0	2	252 & 253
AND	REDHORSE	LUCILLE	0.0	0.0	0	0	0	0	0	0	
254	REDHORSE	LEONARD SR	9.0	9.0	0	0	0	0	0	9	
255	NO PERMIT		9.5	9.5	0	0	0	9	0	0	
256	HOGUE	ROBERT SR.	11.1	11.1	0	0	0	0	11	0	
257	ARTHUR	GEORGE	10.5	10.2	0	0	0	0	0	10	
258	LARGO	MAE	10.0	6.8	0	0	0	0	7	0	
259	HOGUE	CLARENCE	9.9	9.9	1	4	1	4	0	0	
AND	HOGUE	LUCY	0.0	0.0	0	0	0	0	0	0	
260	JOE	ROSITA	10.9	10.9	0	0	0	11	0	0	
AND	JOE	JUNIOR	0.0	0.0	0	0	0	0	0	0	
261	HOGUE	BILL	9.3	9.3	0	9	0	0	0	0	
262	BENALLY	HOSTEEN H	19.7	19.7	0	4	0	0	16	0	
263	ARTHUR	HARRIS	0.0	0.0	0	0	0	0	0	0	
	W/PLOT #276		0.0	0.0	0	0	0	0	0	0	
264	THOMAS	DIANE	8.0	8.0	0	8	0	0	0	0	
AND	THOMAS	HERBERT	0.0	0.0	0	0	0	0	0	0	
265	SIMPSON	LUCY	10.0	10.0	3	6	0	0	0	0	
266	HOGUE	GEORGE	11.0	11.0	6	0	0	0	5	0	
267	MANUELITO	HARRY C.	9.5	9.5	1	8	0	0	0	0	
268	CORDELL	JAMES	10.0	10.0	0	10	0	0	0	0	
269	HOGUE	RICHARD	10.0	10.0	8	1	0	0	0	0	
270	HARVEY	NELLIE	13.6	13.6	2	10	0	0	2	0	
271	MIKE	JOE	15.0	15.0	2	11	0	0	1	0	
272	KIRK	BASIL	3.4	3.4	0	0	0	0	3	0	
AND	KIRK	DESPAH	0.0	0.0	0	0	0	0	0	0	
272-A	BARNEY	VIRGINIA	3.7	3.7	0	0	0	0	3	0	
273	HOGUE	CLARENCE	9.2	4.9	0	5	0	0	0	0	
AND	HOGUE	LARRY	0.0	0.0	0	0	0	0	0	0	
274	BENALLY	LOUISE	5.4	5.0	0	5	0	0	0	0	
AND	BENALLY	HARRY	0.0	0.0	0	0	0	0	0	0	
274-H	BRADLEY	RAYMOND	2.0	1.0	1	0	0	0	0	0	
AND	BRADLEY	LOUIS	0.0	0.0	0	0	0	0	0	0	
275	BRADLEY	RAYMOND	11.8	11.8	0	0	0	0	11	0	
276	ARTHUR	HARRIS	56.9	0.0	0	0	0	0	57	0	
277	SEE PLOT#276		0.0	0.0	0	0	0	0	0	0	
278	SEE PLOT#276		0.0	0.0	0	0	0	0	0	0	
279	ARTHUR	RAYMOND	14.2	14.2	0	0	0	0	14	0	
280	BLUEEYES	ESTHER	13.6	13.6	0	0	0	0	13	0	
281	BENALLY	JOHN HARRY	38.3	0.0	0	0	0	32	6	0	
282	SEE PLOT#281		0.0	0.0	0	0	0	0	0	0	
283	SEE PLOT#281		0.0	0.0	0	0	0	0	0	0	
284	SEE PLOT#281		0.0	0.0	0	0	0	0	0	0	
285	MONTOYA	SHIRLEY C.	16.2	15.3	15	0	0	0	1	0	
286	NEZ	IRITA	11.7	11.0	0	8	1	0	2	0	
AND	NEZ	REYNOLD	0.0	0.0	0	0	0	0	0	0	
287	GORMAN	ALFRED	21.0	21.0	0	3	0	15	3	0	
288	SEE PLOT#287		0.0	0.0	0	0	0	0	0	0	
289	BLUEEYES	PERRY	11.5	11.5	0	0	0	11	0	0	
290	MCLANDON	YULANDA M.	12.0	12.0	0	8	0	4	0	0	

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
291	ARTHUR	JOHN	27.3	15.2	0	0	0	0	27	0	
292	SEE PLOT#291		0.0	0.0	0	0	0	0	0	0	
292-A	ARTHUR	BUDDY J.	10.0	10.0	0	0	0	0	10	0	
293	HARVEY	THOMAS	17.0	19.2	1	13	0	2	0	0	
293-A	SMALLCANYON	INA	3.0	0.0	0	0	0	0	0	0	3 NF
294	BENALLY	ERNEST	12.5	12.5	2	8	0	0	2	0	
295	FRANK	JIM	20.3	20.7	0	3	0	12	7	0	
296	SEE PLOT#295		0.0	0.0	0	0	0	0	0	0	COMBINED W/296 & 295
296-A	SMALLCANYON	TEDDY	2.3	0.0	0	0	0	0	0	0	
AND	SMALLCANYON	INA	0.0	0.0	0	0	0	0	0	0	
297	MCKINLEY	FRANCIS	16.2	0.0	0	0	0	16	0	0	
AND	MCKINLEY	RAMONA	0.0	0.0	0	0	0	0	0	0	
298	SEE PLOT#297		0.0	0.0	0	0	0	0	0	0	
299	BENALLY	WILLIE	8.9	8.9	1	8	0	0	0	0	
300	BENALLY	CHARLIE	10.0	10.0	1	7	0	0	2	0	
301	PETE	HOWELL	11.8	11.8	1	5	0	0	6	0	
302	BENALLY	KENNETH	10.7	10.7	7	3	0	0	0	0	
AND	BENALLY	MARIE	0.0	0.0	0	0	0	0	0	0	
303	TESWOOD	ROSE	10.6	3.5	0	2	0	0	2	0	
304	BEE	NELSON SR.	24.1	24.6	0	8	0	0	16	0	
305	BEE	JOHN	0.0	0.0	0	0	0	0	0	0	
306	PETE	JIM	13.5	13.5	0	13	0	0	0	0	
AND	PETE	ALICE	0.0	0.0	0	0	0	0	0	0	
307	MARTINEZ	JIMMIE	7.0	4.8	0	0	0	0	7	0	
307-B	BEE	JOHNSON	9.6	7.4	0	0	0	0	7	0	
308	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
308-A	MARSHALL	HARRY	8.4	0.0	0	0	0	0	0	0	NF
309	ARTHUR	GEORGE	12.2	12.0	0	0	0	0	12	0	
310	BENALLY	STANLEY	25.8	24.5	0	0	0	0	25	0	
311	BENALLY	STANLEY	0.0	0.0	0	0	0	0	0	0	
312	DALE	PAULINE	10.0	10.0	3	2	0	5	0	0	
321	JOE	JESSIE	15.5	15.5	8	0	5	0	2	0	
321-A	TSO	JOHN & EVA	5.0	5.0	1	0	0	0	4	0	
322	UPSHAW	JOHN	11.1	11.1	2	3	3	0	3	0	
323	GILMORE (T)	DORRIS C.	25.0	25.0	1	1	0	0	16	7	
324	GILMORE	ALICE D.	14.0	14.0	2	8	0	2	2	0	
324-A	YAZZIE	PAULINE	3.7	3.7	0	0	0	0	3	0	
AND	YAZZIE	LANCE	0.0	0.0	0	0	0	0	0	0	
325	TSO	KEE	18.6	0.0	12	0	0	0	6	0	
326	BILLIE	BEN	19.6	19.6	4	4	1	0	0	10	
327	YAZZIE	JAMES	23.8	0.0	0	0	0	0	0	24	
328	SLIM	ELISE	20.6	18.6	1	8	0	0	11	0	
329	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
330	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
331	SLIM	JOHN	19.6	12.8	0	0	2	0	16	1	
332	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
333	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
334	DENNISON	PETER	91.0	91.0	0	25	54	0	8	0	4 ORCHARD
335	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
336	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
337	REFER/PLOT #	334	0.0	0.0	0	0	0	0	0	0	

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
338	REFER/PLOT #	334	0.0	0.0	0	0	0	0	0	0	
339	REFER/PLOT #	334	0.0	0.0	0	0	0	0	0	0	
340	REFER/PLOT #	334	0.0	0.0	0	0	0	0	0	0	
341	FRED	GENE	23.5	23.5	3	0	0	0	3	18	
342	CAMBRIDGE	JESS & E	74.0	74.0	0	6	0	0	18	50	
343	YAZZIE	JACKSON	5.1	5.1	0	0	0	0	0	5	
344	JOE	JIMMIE & A	9.9	9.9	2	7	0	0	2	1	
345	JOE	CURTIS & H	8.0	8.0	3	3	0	0	2	0	
346	JOE	JIMMIE & A	3.4	3.4	0	0	0	0	0	3	
347	PETTIGREW	JOHN & N	15.4	15.4	3	0	0	0	12	0	
348	HAMBA	ALICE	2.9	2.9	0	0	0	0	3	0	
349	YAZZIE	TOM & ROB	10.7	10.7	3	0	0	0	0	7	
350	MARSHALL	HARRY	7.0	7.0	0	0	0	0	0	7	
		TOTALS	3830.0	3335.8	450	1417	120	393	828	311	

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PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
1	HARRISON	LOY	7.8	7.8	2	0	0	0	6	0	
2	KELEWOOD	DAVIS	19.0	17.3	3	11	0	0	3	2	
3	AHKEAH	ROBERT	25.0	21.0	0	11	0	0	7	7	
4	YAZZIE	BOBBY KEE	8.5	8.5	1	0	0	0	8	0	
5	WALTERS	PAUL	7.5	7.5	0	0	0	0	8	0	
6	MORGAN	HELEN	38.8	30.0	5	0	0	0	13	12	
6-A	MORGAN	RICHARD	6.0	0.0	0	0	0	0	6	0	
7	WALTER	DAVID	11.5	0.0	1	0	0	0	11	0	
7-A	BADONI	MAN	4.4	4.4	0	0	0	0	4	0	
8	BEHALLY	MARGARET	14.5	14.5	0	0	0	0	14	0	
8	BEHALLY	JOHN J.	0.0	0.0	0	0	0	0	0	0	
8-A	WALTER	RAYMOND	7.2	7.2	0	4	0	0	3	0	
9	WALTER	NORMAN	9.6	5.5	0	8	0	0	0	2	
10	BADONI	MAN	17.4	17.4	0	6	0	0	7	3	
11/12	HARRISON	JOHN	19.3	19.3	1	2	0	0	16	0	
13	NELSON	ARNOLD R.	10.2	8.0	2	0	0	0	8	0	
14	JIM	ORA BEGAY	9.2	9.2	4	0	0	0	5	0	
14-1	JIM	LARRY R.	5.2	5.2	0	0	0	0	5	0	
14-1	JIM	EVELYN H.	0.0	0.0	0	0	0	0	0	0	
15	CHARLEY	SAM	20.4	20.4	6	0	0	0	14	0	
16	BADONI	HARRY JOHN	7.5	7.5	3	3	0	0	2	0	
17/18	JONES	ROY	32.0	26.4	0	18	0	0	14	0	
17/18	JONES	LOUISE	0.0	0.0	0	0	0	0	0	0	
18-H	AHKEAH	ROGER	4.0	4.0	0	0	0	0	4	0	
19	CLAH	ELEANOR	13.2	13.0	0	0	0	0	13	0	
20	ROY	ELIZABETH	7.3	7.3	0	7	0	0	0	0	
20-A	LEE	BENNIE	4.8	4.8	0	0	0	0	5	0	
21	AHKEAH	EDITH	19.2	18.8	0	0	0	0	19	0	
22	KELEWOOD	DANIEL	12.3	12.3	0	0	0	12	0	0	
23	YAZZIE	DANIEL	8.2	8.2	0	0	0	0	8	0	
23	YAZZIE	LUCILLE	0.0	0.0	0	0	0	0	0	0	
24			8.0	8.0	0	0	0	0	8	0	
25	EDWARDS	TOM	12.0	12.0	0	0	0	4	8	0	
26	EDWARDS	TOM	34.5	25.0	9	0	0	0	20	6	
27	DASH	ROSE	22.8	13.8	9	0	0	0	13	0	
28	JOHN	JONES P.	20.2	9.7	0	6	0	0	14	0	
29	FARLEY	RULE TOM	12.2	10.4	0	0	0	0	12	0	
30	BEGAY	PAULINE P	6.0	6.0	0	0	0	6	0	0	
31	BADONI	MAN	10.0	10.0	0	0	0	0	10	0	
31	BADONI	STELLA	0.0	0.0	0	0	0	0	0	0	
32	BRADY	MARLENE R.	26.5	21.7	0	0	0	4	22	0	
32	BRADY	TOM L.	0.0	0.0	0	0	0	0	0	0	
33	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
34	KELEWOOD	GERALDINE	11.0	11.0	0	11	0	0	0	0	
35	JIM	RAY	18.0	18.0	0	17	1	0	0	0	
36	COLEMAN	CHARLIE	18.5	18.5	0	14	0	0	5	0	
37	CUDEI	NED	34.0	33.0	6	12	0	0	16	0	
38	YAZZIE	FRANK E.	9.4	9.4	2	7	0	0	0	0	
39	NO PERMIT		0.0	0.0	0	0	0	0	0	0	
40	LEE	RAYMOND	6.6	6.6	1	6	0	0	0	0	
41	JACK	LEROY	5.6	5.6	2	3	0	0	0	0	

UTILIZATION/CROP SURVEY
CUDEI IRRIGATION PROJECT
SEPTEMBER 1993

PLOT	LAST	FIRST	ACRE	IRRI	CORN	ALFA	PROD	PAST	IDLE	ABAN	MEMO
42	BEKIS	ROY	7.6	5.2	0	0	0	5	3	0	
43/44			0.0	0.0	0	0	0	0	0	0	
45	BEKIS	ROY	5.9	5.9	1	2	0	0	3	0	
46	YAZZIE	DANIEL	8.4	8.4	6	0	0	0	3	0	
		TOTALS	627.2	543.7	64	148	1	31	340	32	