

Jemez River Stream System Adjudication
Water Rights Settlement Agreement for the Pueblos of Jemez and Zia Summary
Prepared Jointly by the Settlement Parties

Overview:

Adjudication of the Rio Jemez Stream System commenced in 1983. Over the last almost 40 years, the parties have been embroiled in complex litigation and lengthy settlement discussions to resolve conflicts over the scarce surface water in the Jemez Valley, including the water rights of the Pueblo of Jemez and the Pueblo of Zia.

After years of attempts to settle, the parties (the Pueblo of Jemez, the Pueblo of Zia, the United States as Trustee, the Jemez River Basin Water Users Coalition, the San Ysidro Community Ditch Association, the State of New Mexico and the City of Rio Rancho) have reached a proposed settlement. The settlement prevents conflicts over surface water by providing federal funding to the Pueblos and state funding to the San Ysidro Community Ditch to use groundwater to augment their surface water supplies. This groundwater augmentation will benefit all users, including 10 upstream acequias who will no longer be subject to curtailment from Pueblo priority calls. By providing a critical buffer against climate change's effects on surface supplies, the augmentation of surface water and other proposed settlement projects will help preserve ancient cultural and agricultural practices and strengthen the relationship between Pueblo and non-Pueblo communities in the Jemez River Basin.

Litigation Background:

The *United States v. Abousleman et al.* case was filed by the United States on June 27, 1983, as a trespass action on behalf of the Pueblos of Jemez, Zia, and Santa Ana alleging that non-Indian uses of water from the Jemez River stream system were infringing on the water rights of the Pueblos, which it alleged were prior and paramount to any non-Indian rights. The case then proceeded as a general stream adjudication of the water rights of all users in the Jemez River Basin in New Mexico, including the Pueblos of Jemez, Zia, and Santa Ana. The water rights of the non-Pueblo claimants have been adjudicated. However, the case has a long history of litigation and negotiation regarding the water rights claims of the three Pueblos.

The Agreement recognizes the water rights of the Pueblos of Jemez and Zia based on historic uses, as well as specified rights (1,200 acre feet per year for each Pueblo) to future uses of water within the Jemez River Basin. The Agreement also provides for alternative administration between the two Pueblos and non-Pueblo irrigators centered around a groundwater augmentation project intended to supplement surface water supply during periods of low flow. Construction and operation of this project will provide the Pueblos and non-Pueblo water users a more reliable supply of water.

Legislation to ratify the settlement has been introduced in both the House and the Senate.

Settlement Benefits:

The Settlement benefits both Pueblo and non-Pueblo water users by fully resolving the water rights claims of the two Pueblos that have been pending for 39 years in the adjudication case. The

Settlement will also:

- Resolve issues and disputes related to water use in a manner that recognizes the unique historic, social, cultural, and geographic characteristics of both Pueblo and non-Pueblo water users, and the unique hydrologic characteristics of the Jemez Basin.
- Establish the rights of each Pueblo to use water for its own people and purposes and will provide for quantification of Pueblo water rights, reliability of supply, and economic development for the Pueblos both now and into the future.
- Avoid the uncertainty and expense of the protracted litigation regarding the Pueblos' water rights claims.
- Avoid priority calls against non-Pueblo water users by meeting Pueblo demand through groundwater augmentation.
- Protect surface and ground water in the Jemez River Basin for future generations while allowing all parties to fully exercise their water rights.
- Protect both Pueblo and non-Pueblo water rights in the Jemez River Basin from impairment.
- Provide for alternative priority administration of Pueblo and non-Pueblo water rights that allows for sharing of water shortages instead of strict priority administration;
- Provide substantial federal funding that will be used to build water infrastructure to provide a reliable supply of irrigation water for the Pueblos and non-Pueblo irrigators in a chronically water-short basin.
- Address in-basin aquifer and surface water impacts of future water development.
- Provide employment opportunities and other economic benefits to Pueblo members stemming from construction, operation and maintenance of numerous settlement projects and improvements. For example, both Pueblos plan to establish a Water Resource Department, providing opportunities for employment of tribal youth in professional fields – e.g., engineers, hydrologist, technicians.
- Provide employment opportunities and gross receipts tax revenues to local communities as a result of the water infrastructure projects to be funded as part of the Settlement Agreement. These projects will have statewide economic benefits because their scope will create demand for additional labor, construction, and technical expertise from outside the local community.

Funding Requests:

Federal funding in the amount of \$490 million is contemplated for water and wastewater infrastructure improvements, watershed protection, water-related Pueblo community welfare and economic development, and costs relating to implementation of the Agreement.

The State will fund the San Ysidro Community Ditch Association's capital and operating expenses relating to the Project in the amount of \$3.4 million, and approximately \$16 million for Coalition acequia ditch improvements. Finally, the State will fund a water master and staff, if the State Engineer finds it necessary to appoint a Water Master to manage water rights in the Jemez Basin.

Jemez River Stream System Water Rights Settlement Summary – Pueblos of Jemez and Zia

State Funding Commitments to the Indian Water Rights Settlement Fund:

Party	Amount
San Ysidro Community Ditch Association	\$ 3,400,000
11 Acequias (pursuant to allocation plan)	\$16,159,000
State/State Engineer	2 FTE Positions: Water Master, Staff; TBD Annually
TOTAL	\$19,559,000

Federal Funding Commitments:

Party	Amount
Pueblo of Zia Settlement Fund	\$200,000,000
Pueblo of Jemez Settlement Fund	\$290,000,000
TOTAL	\$490,000,000

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