



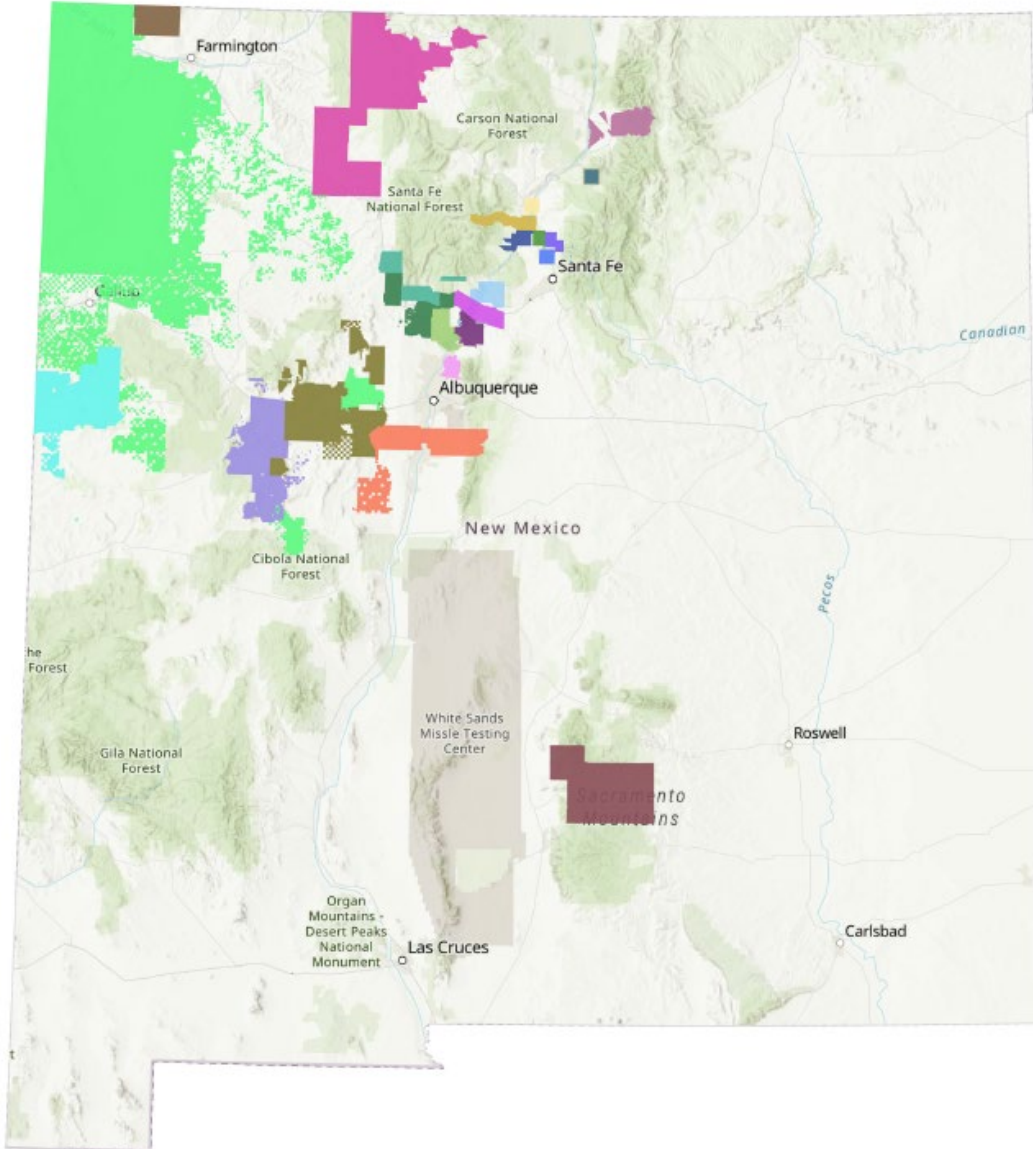
Water Rights Settlements with New Mexico's Pueblos, Tribes, and Nations:



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Overview of Water Rights Settlements with Pueblos, Tribes, & Nations

24 Pueblos, Tribes, and Nations Within New Mexico



19 Pueblos:

- Acoma
- Cochiti
- Isleta
- Jemez
- Laguna
- Nambé
- Ohkay Owingeh
- Picuris
- Pojoaque
- San Felipe
- San Ildefonso
- Sandia
- Santa Ana
- Santa Clara
- Santo Domingo (Kewa)
- Taos
- Tesuque
- Zia
- Zuni

5 Tribes/Nations:

- Fort Sill Apache
- Jicarilla Apache
- Mescalero Apache
- Navajo Nation
- Ute Mountain Ute



Overview of Water Rights Settlements with Pueblos, Tribes, & Nations

- **7 PTN** have reached final settlement agreements, Congressional Act passed, funding approved by Congress and State Legislature:
 - Jicarilla Apache Tribe (San Juan River Stream System/Basin)
 - Jicarilla Apache Tribe (Chama River Stream System/Basin)
 - Taos Pueblo (Rio Pueblo de Taos/Rio Hondo Stream System) *(seeking additional funding)*
 - Navajo Nation (San Juan Stream System) *(seeking additional funding for Navajo-Gallup Water Supply Project)*
 - Nambé Pueblo (Nambé, Pojoaque, Tesuque Stream System/Basin)
 - Pojoaque Pueblo (Nambé, Pojoaque, Tesuque Stream System/Basin)
 - Tesuque Pueblo (Nambé, Pojoaque, Tesuque Stream System/Basin)
 - San Ildefonso Pueblo (Nambé, Pojoaque, Tesuque Stream System/Basin)

- **1 PTN** litigated its water rights
 - Mescalero Apache (Rio Hondo – Pecos River Stream System/Basin)



Overview of Water Rights Settlements with Pueblos, Tribes, & Nations

- **9* PTN** are in active negotiations with a federal negotiation team:
 - **4 PTN** have signed local settlement agreements and have federal legislation introduced in Congress (S.595, H.R. 1304 *introduced 3/1/2023*)
 - Acoma Pueblo (Rio San José Stream System)
 - Laguna Pueblo (Rio San José Stream System)
 - Jemez Pueblo (Jemez River Stream System)
 - Zia Pueblo (Jemez River Stream System)
 - **2 PTN** have signed local settlement agreements and are working on federal legislation for introduction in Congress
 - Ohkay Owingeh* (Chama River Stream System)
 - Zuni Pueblo (Zuni River Stream System)
 - **4 PTN** are in negotiation phase
 - Navajo Nation (Zuni Stream System, San Jose Stream System)
 - Santa Clara Pueblo (Santa Cruz/Truchas Stream System)
 - Ohkay Owingeh* (Santa Cruz/Truchas Stream System)
 - Ute Mountain Ute Tribe (San Juan River)



Overview of Water Rights Settlements with Pueblos, Tribes, & Nations

- **6 PTN** have federal assessment teams appointed:
 - Cochiti Pueblo (Middle Rio Grande Stream System)
 - Isleta Pueblo (Middle Rio Grande Stream System)
 - San Felipe Pueblo (Middle Rio Grande Stream System)
 - Sandia Pueblo (Middle Rio Grande Stream System)
 - Santa Ana Pueblo (Middle Rio Grande Stream System)
 - Santo Domingo/Kewa Pueblo (Middle Rio Grande Stream System)

- **1 PTN** is in litigation:
 - Santa Ana Pueblo (Jemez River Stream System)



STATUS OF WATER RIGHTS SETTLEMENTS/ADJUDICATIONS
FOR NEW MEXICO PUEBLOS/TRIBES/NATIONS (May 2024)

| | Stream System | Pueblo, Nation, Tribe | Adjudication | Status | Congress Approved |
|--|---|-------------------------|--|---|---|
| Completed = ✓ | | | | | |
| ✓ | Rio Chama | Jicarilla Apache Nation | Fed'l Ct: <i>N.M. v. Aragon</i> , Case No. 6:69-cv-07941-KWR/KK (N.M.D.Ct.) | Settlement Agreement ("SA"); Partial Final Judgment and Decree ("PFJD") | PL 102-441, 106 Stat. 2237 (1992) |
| ✓ | Pecos Stream System (Rio Hondo) | Mescalero Apache Tribe | State Court: <i>N.M. v. Lewis</i> , Case No. 20294 & 22600 (Consolidated) | PFJD | N/A (court order - litigation) (1989, 1993, 2003) |
| ✓ | Pojoaque Basin (Nambe, Pojoaque, Tesuque (NPT)) | Pueblo of Nambe | Fed'l Ct: <i>N.M. v. Aamodt</i> , 6:66-cv-6639-WJ-WPI (N.M.D.Ct.) | SA, PFJD | PL 111-291, 124 Stat. 3134 (2010) |
| ✓ | Pojoaque Basin (NPT) | Pueblo of Pojoaque | Fed'l Ct: <i>N.M. v. Aamodt</i> , 6:66-cv-6639-WJ-WPI (N.M.D.Ct.) | SA, PFJD | PL 111-291, 124 Stat. 3134 (2010) |
| ✓ | Pojoaque Basin (NPT) | Pueblo of San Ildefonso | Fed'l Ct: <i>N.M. v. Aamodt</i> , 6:66-cv-6639-WJ-WPI (N.M.D.Ct.) | SA, PFJD | PL 111-291, 124 Stat. 3134 (2010) |
| ✓ | Pojoaque Basin (NPT) | Pueblo of Tesuque | Fed'l Ct: <i>N.M. v. Aamodt</i> , 6:66-cv-6639-WJ-WPI (N.M.D.Ct.) | SA, PFJD | PL 111-291, 124 Stat. 3134 (2010) |
| ✓ | San Juan River | Jicarilla Apache Nation | State Ct: <i>N.M. v. U.S.</i> , Case No. 75-184 (11th Dt, San Juan County) | SA, PFJD | PL 102-441, 106 Stat. 22378 (1992) |
| ✓ | San Juan River | Navajo Nation | State Ct: <i>N.M. v. U.S.</i> , Case No. 75-184 (11th Dt, San Juan County) | SA, PFJD | PL 111-11, 123 Stat. 1379 (2009) |
| ✓ | Taos - Rio Pueblo de Taos and Rio Hondo Stream System | Taos Pueblo | Fed'l Ct: <i>State v. Abeyta</i> , Case No. 6:69-cv-07896-KWR-JRF & 6:69-cv-07939-KWR-JRF (Consolidated) | SA, PFJD | PL 111-291, 124 Stat. 3064, 3122 (2010) |
| "Local" Settlement Agreement Reached = •✓ | | | | | |
| ✓• | Chama River | Ohkay Owingeh | Fed'l Ct: <i>N.M. v. Aragon</i> , Case No. 6:69-cv-07941-KWR/KK (N.M.D.Ct.) | Negotiation - Local SA | |

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| | Stream System | Pueblo, Nation, Tribe | Adjudication | Status | Congress Approved |
|---|-------------------|-----------------------------|--|------------------------|--|
| ✓• | Jemez River | Jemez Pueblo | Fed'l Ct: <i>U.S. v. Abouseleman</i> , 6:83-cv-01041-KWR-JHR (N.M. D.Ct.) | Negotiation - Local SA | S.B. 595 & H.R. 1304 introduced 3/1/2023 (Rio San Jose & Rio Jemez Water Settlement Act of 2023) |
| ✓• | Jemez River | Zia Pueblo | Fed'l Ct: <i>U.S. v. Abouseleman</i> , 6:83-cv-01041-KWR-JHR (N.M. D.Ct.) | Negotiation - Local SA | S.B. 595 & H.R. 1304 introduced 3/1/2023 |
| ✓• | Rio Puerco | Pueblo of Laguna | N/A (addressed in SA for Kerr McGee - Rio San Jose) | Negotiation - Local SA | S.B. 595 & H.R. 1304 introduced 3/1/2023 |
| ✓• | Rio Salado | Pueblo of Acoma | N/A (addressed in SA for Kerr McGee - Rio San Jose) | Negotiation - Local SA | S.B. 595 & H.R. 1304 introduced 3/1/2023 |
| ✓• | Rio San Jose | Pueblo of Acoma | State Ct: <i>N.M. v. Kerr McGee</i> , D-1333-cv-1983-00190 and D-1333-cv-1983-00220 (Consolidated) | Negotiation - Local SA | S.B. 595 & H.R. 1304 introduced 3/1/2023 |
| ✓• | Rio San Jose | Pueblo of Laguna | State Ct: <i>N.M. v. Kerr McGee</i> , D-1333-cv-1983-00190 & D-1333-cv-1983-00220 (Consolidated) | Negotiation - Local SA | S.B. 595 & H.R. 1304 introduced 3/1/2023 |
| ✓• | Zuni River | Pueblo of Zuni | Fed'l Ct: <i>U.S. v. N.M. v. A&R Productions</i> , Case No. 6:07-CV-00681-DHU-JHR | Negotiation - Local SA | |
| ✓• | Zuni Salt Lake | Pueblo of Zuni | N/A (addressed in SA for Zuni) | Negotiation - Local SA | |
| In Active Negotiation -- Federal Assessment Team or Negotiation Team Appointed = ❖ | | | | | |
| ❖ | Middle Rio Grande | Cochiti Pueblo | None | Assessment | |
| ❖ | Middle Rio Grande | Isleta Pueblo | None | Assessment | |
| ❖ | Middle Rio Grande | San Felipe Pueblo | None | Assessment | |
| ❖ | Middle Rio Grande | Sandia Pueblo | None | Assessment | |
| ❖ | Middle Rio Grande | Santa Ana Pueblo | None | Assessment | |
| ❖ | Middle Rio Grande | Santo Domingo Pueblo (Kewa) | None | Assessment | |
| ❖ | Rio San Jose | Navajo Nation | State Ct: <i>N.M. v. Kerr McGee</i> , D-1333-cv-1983-00190 & D-1333-cv-1983-00220 (Consolidated) | Negotiation | |

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| | Stream System | Pueblo, Nation, Tribe | Adjudication | Status | Congress Approved |
|--------------------------|--------------------------------|--------------------------------|--|-----------------------------|----------------------|
| ❖ | San Juan River | Ute Mountain Ute Tribe | State Ct: <i>N.M. v. U.S.</i> , Case No. 75-184 (11th Dt, San Juan County) | Negotiation | |
| ❖ | Santa Cruz & Truchas Rivers | Ohkay Owingeh | Fed'l Ct: <i>N.M. v. Abbott</i> , Case No. 6:68-cv-7488 KWR-JHR (Santa Cruz) & Case No. 6:70-cv-8650 (Truchas) (Consolidated) (N.M. D Ct.) | Negotiation | |
| ❖ | Santa Cruz & Truchas Rivers | Santa Clara Pueblo | Fed'l Ct: <i>N.M. v. Abbott</i> , Case No. 6:68-cv-7488 KWR-JHR (Santa Cruz) & Case No. 6:70-cv-8650 (Truchas) (Consolidated) (N.M. D Ct.) | Negotiation | |
| ❖ | Santa Fe River | Cochiti Pueblo | State Ct: <i>Anaya v. Public Service Co. of New Mexico</i> , No. SF 71-43,347 | Assessment - TBD | |
| ❖ | Santa Fe River | Santo Domingo Pueblo (Kewa) | State Ct: <i>Anaya v. Public Service Co. of New Mexico</i> , No. SF 71-43,347 | Assessment - TBD | |
| ❖ | Zuni River | Navajo Nation (Ramah) | Fed'l Ct: <i>U.S. v. N.M. v. A&R Productions</i> , Case No. 6:07-CV-00681-DHU-JHR | Negotiation | |
| In Litigation = # | | | | | |
| # | Jemez River | Santa Ana Pueblo | Fed'l Ct: <i>U.S. v. Abouseman</i> , 6:83-cv-01041-KWR-JHR (N.M. D.Ct.) | Adjudication/ Litigation | |

Basic Steps to Reaching Water Rights Settlement Agreement (More or Less)



- A. Federal Assessment Team
- B. Federal Negotiation Team
- C. Negotiations with Pueblo/Tribe/Nation, United States and State
- D. Negotiations expanded to include local entities, acequias, irrigation districts, municipalities, cities, etc.
- E. Local Settlement Agreement signed by all Parties but for United States
- F. Parties draft Federal Legislation
- G. Review by Working Group and SIWRO
- H. Federal Legislation - introduced in House and Senate; Congressional Hearings
- I. Once passed by Congress – parties conform the Settlement Agreement
- J. Approval and signing of conformed Settlement Agreement by Department of the Interior
- K. Regular court adjudication process for entry of a Partial Final Judgment and Decree adjudicating the water rights within a stream system/basin and accepting the Settlement Agreement (includes *inter se*)
- L. State funding process – Indian Water Rights Settlement Fund

Key Components of a Pueblo, Tribe, Nation Water Rights Settlement Agreement

Each Settlement Agreement is unique, BUT there are some common components for a thorough settlement and adjudication of water rights, such as:

1. Parties to the Settlement Agreement
2. Definitions
3. Water Rights of Pueblo/Tribe/Nation
4. Traditional Uses/Cultural Protection
5. Projects or Special Uses
6. Basin Management for all Users in the Stream System/Basin
7. Administration within Pueblo/Tribe/Nation
8. Leasing of Water Rights
9. Federal Settlement Funding
10. State Funding
11. General Provisions
12. Waivers/Releases of Claims
13. Conditions Precedent
14. Exhibits/Appendix/Hydrographic Survey



State Future Funding Commitments

2024-04-01 Indian Water Rights Settlements – State & Federal Funding Breakdown (OSE BPTN)

| Settlement Agreement | Total Funding (State & Fed) | Federal Funding | State Funding | Early State Funding |
|--|-----------------------------|---|--|--|
| The Pueblos of Jemez and Zia -- Rio Jemez Water Rights Settlement Agreement | \$510,059,000 | \$490,000,000 - \$200 mil Zia - \$290 mil Jemez | \$20,059,000 - \$3.4 mil San Ysidro Community Ditch Association - \$16,159,000 JRB Coalition (11 Acequias) - \$500k Impairment Fund | |
| The Pueblos of Acoma Laguna -- Rio San José Stream System Water Rights Local Settlement Agreement* | \$886,000,000 | \$850,000,000 - \$311,750,000 Acoma - \$493,250,000 Laguna - \$45,000,000 Acomita Reservoir Joint Fund | \$36,000,000 - \$12.5 mil City of Grants - \$11 mil Village of Milan - \$12 mil RSJ Acequias (9) - \$500k Impairment Fund | \$250,000 - RSJ Acequias (Pending) |
| Navajo Nation* -- Rio San José Stream System | | | - RSJ Acequias (Bluewater Toltec Irrigation District & Acequia Madre del Ojo del Gallo) | |
| Settlement Agreement to Quantify Water Rights of the Zuni Indian Tribe and to Protect the Zuni Salt Lake | \$686,250,000 | \$685,000,000 | \$1,250,000 - \$750k Monitoring Critical Protection Areas & Zuni Salt Lake - \$500k Impairment Fund | |
| Ohkay Owingeh -- Rio Chama Water Rights Settlement | \$876,000,000 | \$745,000,000 - \$235.1 mil WR Claims - \$509.9 mil Bosque Takings vs. U.S. | \$131,000,000 - \$98.5 mil Acequias ** - \$32 mil City of Espanola - \$500k Impairment Fund | \$7,000,000 - Rio Chama Acequia Assoc |
| Taos Pueblo Indian Water Rights Settlement Amendments Act | \$319,001,803 | \$281,000,000 -\$129 mil (75% Mutual Benefit Project) -\$152 mil GW Project | \$38,001,803 - \$43,076,803 total owed total w/ \$5,075,000 paid out = \$38,001,803 mil remains | \$5.6 mil not early funding but shovel ready: - \$2.2 mil El Prado - \$1.6 mil Llano Quemado - \$1.8 Rio Chiquito |
| TOTAL | \$3,277,310,803 | \$ 3,051,000,000 | \$226,310,803 | \$7,250,000 |
| Navajo-Gallup Water Supply Project Amendments (Navajo & Jicarilla Apache) | | \$1,500,000,000 (approx.) | No State Contribution for this Amendment. | |

*--Rio San Jose Stream System Water Rights Local Settlement Agreement Among the Pueblo of Acoma, the Pueblo of Laguna, the Navajo Nation, the State of New Mexico, the City of Grants, the Village of Milan, the Association of Community Ditches of the Rio San Jose and Nine Individual Acequias and Community Ditches "

** The funding agreement shall allow for the distribution of \$88,075,000 within 10 years of the date of enactment of the Settlement Act and \$10,425,000 will be funded after the Enforceability Date

State's Funded/ Appropriated Settlement Agreements

Funded Indian Water Rights Settlements – State Funding Legislation Office of the State Engineer – Bureau for Pueblos, Tribes & Nations

| State Appropriation for IWRS Agreements | Amount Appropriated | Settlement Agreement |
|---|----------------------|-----------------------------|
| Laws of 2009, Ch. 5, §1 (11) | 10,000,000 | Navajo Nation, Taos, Aamodt |
| Laws of 2011, Ch. 5 | 15,000,000 | Navajo Nation, Taos, Aamodt |
| Laws of 2013, Ch. 226, §22 | 10,000,000 | Navajo Nation, Taos, Aamodt |
| Laws of 2015, 1 st Spec. Sess., Ch. 3, §19 | 8,200,000 | Navajo, Taos, Aamodt |
| Laws of 2015, 1 st Spec. Sess., Ch. 3, §49 | 500,000 | Navajo, Taos, Aamodt |
| Laws of 2015, 1 st Spec. Sess., Ch. 3, §84 | 2,000,000 | Navajo, Taos, Aamodt |
| Laws of 2015, 1 st Spec. Sess., Ch. 3, §89 | 2,000,000 | Navajo, Taos, Aamodt |
| Laws of 2016, Ch. 11, §2 | 35,000 | Taos |
| Laws of 2018, Ch. 80, §23 | 6,175,000 | Aamodt |
| Laws of 2018, Ch. 80, §45 | 2,825,000 | Aamodt |
| Laws of 2019, Ch. 262, §24 | 12,000,000 | Aamodt |
| Laws of 2019, Ch. 262, §25 | 2,000,000 | Aamodt |
| Laws of 2020, Ch. 74, §32 | 9,000,000 | Aamodt |
| Laws of 2021, Ch. 131, §27 | 9,000,000 | Aamodt |
| Laws of 2022 | 10,600,000 | Aamodt |
| Laws of 2022 | 32,000,000 | Aamodt |
| TOTAL | \$131,335,000 | |

Laws of 2023 (HB 1, § 108): \$20,000,000 to State Engineer “to support and fund Indian water rights settlements, for expenditure in fiscal years 2025 through 2027.”

New Mexico's Goals in Water Rights Settlements

1. Defining the elements of water rights of the Pueblo, Tribe, or Nation
2. Reducing or eliminating uncertainty regarding the administration of water rights
3. Avoiding or mitigating adverse impacts on non-Pueblo users from increased Pueblo/Tribe/Nation uses of water
4. Avoiding Interstate Compact challenges associated with increased use of water
5. Securing federal and state funds for New Mexico infrastructure projects
6. Protecting sacred places, recognizing cultural practices, incorporating restoration
7. Ensuring implementation is feasible and understood by all

OVERALL GOAL: Securing a reliable water future for all water users in the face of a diminishing supply, and ensuring that any necessary reductions in use are just, equitable, and predictable.

Thank you

Bureau for Pueblos, Tribes, & Nations
New Mexico Office of the State Engineer
April 2024

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