

## LIST OF SUBSTANTIVE PUBLIC COMMENT CONCERNS AND ISSUES

1. The public review and comment period was too short to allow non-Navajo interests to have meaningful participation in development of a Navajo Nation water rights settlement, and further comments will be submitted.
2. The Navajo Nation waived its reserved water rights claims, except for the San Juan River irrigation projects.
3. The Navajo Indian Irrigation Project is not practicably irrigable acreage that should have a reserved priority date, and the federal municipal and domestic water supply projects also should not have a reserved priority date.
4. The Navajo Indian Irrigation Project is not economically sound or profitable, and the United States should not complete construction of the project or pay the operation and maintenance costs of the project.
5. The acres of water right for the Navajo Indian Irrigation Project should be reduced even without consideration of economics.
6. The diversion right for the Navajo Indian Irrigation Project exceeds the diversion required to irrigate project lands, and should be reduced to reflect the sprinkler redesign for the project.
7. Navajo Indian Irrigation Project water rights should be leasable and transferable for municipal and industrial uses on and off Navajo lands.
8. The settlement agreement should include water rights for the Navajo Nation in the amount of 24,000 acre-feet for savings in depletions of water due to conversion of the Navajo Indian Irrigation Project from flood irrigation to sprinkler irrigation and consolidating the project acreage.
9. The Navajo Nation should not be allowed to reuse return flows from the Navajo Indian Irrigation Project.
10. The amount of water delivered outside the San Juan River Basin under the Navajo-Gallup Water Supply Project may be too large or increase later.
11. The shortage sharing provisions of the Act of June 13, 1962, provide only for sharing of the available supply with the San Juan-Chama Project and the Navajo Indian Irrigation Project.
12. The San Juan-Chama Project is sufficiently shorted by the bypass requirements at the points of diversion under section 8 of the Act of June 13, 1962, and should be excluded from the shortage sharing requirements of section 11 of the Act.

13. Both Navajo and non-Navajo irrigation ditches on the San Juan River, and non-Navajo communities in the Basin, should be allowed to store water in Navajo Reservoir and receive delivery of stored water.
14. Priorities of reserved rights for the Navajo irrigation projects should not all be 1868; rather, the priority dates for irrigation uses should reflect the actual dates that lands were reserved for the Navajo people or that irrigation uses were historically made.
15. The Fruitland and Hogback irrigation projects should be hydrosurveyed and have the same per acre consumptive irrigation requirements and farm duties as non-Navajo irrigation ditches.
16. The Fruitland and Hogback irrigation projects should have a maximum instantaneous diversion rate of 1 cfs per 40 acres of water right consistent with the maximum instantaneous diversion rates adjudicated in the Echo Ditch Decree for non-Navajo irrigation ditches.
17. Diversion rights for Navajo Nation irrigation uses should be annual limits, not ten-year running averages, because there is no basis for averaging diversions over ten years and the Nation could lease huge amounts of senior or contract water rights in the tenth year to the detriment of other water users.
18. Sufficient analysis has not been made to indicate whether sufficient water is available for the proposed settlement, and primarily for the Navajo-Gallup Water Supply Project.
19. The schedule of anticipated depletions in the Upper Colorado River Basin in New Mexico is flawed because it does not include or consider full water rights, and because only diversions, not depletions, can be determined.
20. The Navajo Nation should not receive additional water rights if the yield available to the Upper Basin exceeds 6.0 million acre-feet because the proposed settlement would already provide sufficient amounts of water for a permanent homeland.
21. Settlement of the Navajo Nation's groundwater rights is not clear.
22. Clarity is needed with respect to the water rights of the Navajo Nation and the rights or claims of individual members of the Navajo Nation.
23. It has not been established what the Navajo Nation's water rights and uses would be without the proposed settlement, and therefore, the impact of settlement cannot be evaluated.

24. There are two opposite extremes to who should have jurisdiction over the use of water under the Navajo Nation's water rights: (1) the State Engineer should have jurisdiction over all Navajo Nation uses of water in the San Juan River Basin; or (2) the Navajo Nation should be able to do whatever it wishes with its water rights without state oversight.
25. A settlement should not include waivers by the Navajo Nation.
26. A Navajo Nation water rights settlement should include a waiver that the Navajo Nation would not challenge in the San Juan River Adjudication rights adjudicated by the Echo Ditch Decree or other previous decrees unless upon a claim of forfeiture subsequent to the decrees.
27. The Secretary of the Interior permits for federal water development projects in New Mexico need clarification, and water users, not the United States, own water rights.
28. The demands on Navajo Reservoir for endangered fish habitat purposes are not quantified and may impair existing uses.
29. The proposed Navajo Nation water rights settlement would not leave sufficient water available for dealing with the Ute Mountain Ute Tribe's water rights claims in the San Juan River Basin in New Mexico.