

ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN
STATE OF NEW MEXICO

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STATE OF NEW MEXICO ex rel.)
State Engineer,)
)
Plaintiff,)
)
v.)
)
UNITED STATES OF AMERICA, et al.,)
)
Defendants.)
)
)
)

No. CIV 75-184
SAN JUAN RIVER
ADJUDICATION SUIT

PARTIAL FINAL JUDGMENT AND DECREE
OF THE WATER RIGHTS OF THE
JICARILLA APACHE TRIBE

THIS CASE is a general adjudication of the surface and underground water rights within the San Juan River Basin authorized by NMSA §§ 72-4-13 through -19. All rights of the Jicarilla Apache Tribe to divert, impound, or use the surface or underground waters within the San Juan River Basin, including the Navajo River system, a tributary of the San Juan River, are decreed herein.

This matter comes before the Court on a Joint Motion for the Entry of a Partial Final Judgment and Decree (decree) filed by the United States, the State of New Mexico, the Jicarilla Apache Tribe, and other parties represented by signing counsel. The Court finds that the proposed decree is the product of a negotiated settlement by the aforesaid parties. Notice of the deadline for filing and serving objections to the water rights described in this decree was served on the parties to this case and potential water right

claimants. The Court has considered the motion and the United States' Hydrographic Survey Report describing the water rights to be adjudicated in this decree, and the objections thereto. See the Hydrographic Survey Report attached to the motion as Exhibit E. Upon consideration of the motion, the evidence in support thereof, and for good cause shown, the Court finds that the motion should be granted. In accordance with Rule 1-054(C) NMRA 1996, the Court further finds that there is no just reason for delay and directs the entry of this partial final judgment adjudicating all the water rights of the Jicarilla Apache Tribe within the San Juan River Basin.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Jurisdiction. The Court has jurisdiction over the subject matter and the parties in this case.

2. ~~Reserved water rights for future use.~~ The Jicarilla Apache Tribe has the right to divert the surface or underground waters of the San Juan River Basin or a combination of waters from both sources in annual quantities not to exceed 40,000 acre-feet or the quantity of water necessary to supply a depletion of 32,000 acre-feet, whichever is less, with a priority date of September 21, 1880, subject to the limitations set forth in paragraph 3 of this decree.

3. Limitations on future use reserved rights. The Jicarilla Apache Tribe has the right to divert, impound, or use the reserved water rights described in paragraph 2, provided that:

(a) The Tribe's reserved water rights set out in paragraph 2 are subordinated, as provided in subparagraph (b), below, to the rights of the Tribe to the delivery of 40,000 acre-feet of water per year under the terms of the Contract dated December 8, 1992, between the Secretary of the Interior and the Tribe, authorized and approved by the United States Congress in section 5 of the Jicarilla Apache Tribe Water Rights Settlement Act, 106 Stat. 2237; provided, however, that nothing herein is intended to confer jurisdiction on this court over any action to enforce or challenge said contract or over any action for breach thereof. The Tribe's contract rights are based on the water rights held by the United States under state law with a priority date of June 17, 1955, and are subject to the sharing of shortages as provided in section 11(a) of the Act of June 12, 1962, 76 Stat. 96. The term "shortages" includes a decrease in water availability caused by application of federal water quality or endangered species requirements.

(b) The subordination of the reserved water rights referred to in subparagraph (a), above, requires that the reserved right to each acre-foot of water per year under paragraph 2 shall be subordinated to the Tribe's contract right to each acre-foot of water per year, so that on the entry of this decree the Tribe may exercise its 40,000 acre-feet of future use reserved water rights if and only if all or part of the Tribe's rights to divert water under the contract

are irretrievably lost. The irretrievable loss of the contractual right to the delivery or diversion of water will occasion operation of the Tribe's rights under paragraph 2 to divert waters in annual quantities not to exceed the amounts of water under the contractual rights which have been irretrievably lost. The temporary loss of the use of part or all of the Tribe's right to divert water under the Contract because of a judicial determination that a particular use is speculative or constitutes waste contrary to state law, or because a particular use proposed by a subcontract is denied or prohibited by state law, shall not constitute the irretrievable loss which will occasion operation of the Tribe's rights under paragraph 2.

4. Reserved water rights for historic and existing uses. The Jicarilla Apache Tribe has reserved water rights for all historic and existing water uses, described herein and in the United States' Hydrographic Survey Report. Those rights have a priority date of September 21, 1880. The total annual quantities of water to which the Tribe has a reserved water right for historic and existing uses shall not exceed an annual diversion of 5,682.92 acre-feet or the quantity of water necessary to supply a depletion of 2,194.58 acre-feet, whichever is less, and a net evaporation of 2,187.16 acre-feet. These water rights are described below. The following descriptions are not intended to prohibit changes in the point of diversion, or purpose or place of water use of the Tribe's reserved water rights under federal law. The conditions, if any, under

which the Tribe may make such changes are reserved for the Court's continuing jurisdiction to administer and enforce this decree, as provided in paragraph 8.

I. NAVAJO RIVER BASIN

A. LIVESTOCK WATER USE

1. STOCK PONDS

<u>PLACE OF USE</u>		<u>SURFACE AREA</u> (acres)	<u>VOLUME</u> (acre-feet)	<u>NET EVAPCRATION</u> (acre-feet)
All stock ponds described in the U.S. Hydrographic Survey Report.	Totals:	105.74	274.92	213.06

The locations, sources, surface areas, and volumes of individual stock ponds, and the net evaporation of each pond, are identified and described in the United States Hydrographic Survey Report attached to the joint motion as Exhibit E. The Tribe has the right to fill and refill each identified stock pond to its full capacity as often as waters are available from natural inflow or from water imported from outside the San Juan River Basin.

2. STOCK AND WILD GAME USE

<u>PLACE OF USE</u>	<u>NO. OF ANIMAL UNITS</u>	<u>AMOUNT OF WATER DIVERSION</u> (acre-feet)	<u>AMOUNT OF WATER DEPLETION</u> (acre-feet)
At stock wells and springs described below and in stock ponds described in the U.S. Hydrographic Survey Report.	1,033	17.36	17.36

The foregoing diversion and depletion amounts are the amounts of water consumed by stock and wild game from the stock wells and springs listed below and stock ponds identified and described in

the United States Hydrographic Survey Report attached to the joint motion as Exhibit E.

a. STOCK WELLS

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
31N	2W	14	NW SE SE	2	JW-001	ground
31N	2W	24	SW NW SW	2	JW-002	ground
31N	2W	22	NE NW SW	2	JW-003	ground
31N	2W	22	SE SW NW	2	JW-004	ground
31N	2W	15	SW SW SE	2	JW-005	ground
31N	2W	10	SE NE NE	2	JW-006	ground
31N	2W	11	NW NW SW	2	JW-007	ground
31N	2W	11	NW NW NW	2	JW-008	ground
31N	2W	2	SW SW NW	2	JW-009	ground
31N	2W	23	NE SE NE	2	JW-010	ground
31N	2W	23	SW SE NE	2	JW-011	ground
31N	2W	23	SE SE NE	2	JW-012	ground
31N	2W	24	SW NW NW	2	JW-013	ground
31N	2W	12	NW SW SW	2	JW-014	ground
31N	2W	18	NW NE SW	2	JW-015	ground
31N	2W	1	SW NW SE	3	JW-016	ground
32N	1W	30	SE NE NE	3	JW-017	ground
31N	2W	24	NE SW NW	3	JW-018	ground
31N	2W	24	NW SW NW	3	JW-019	ground
30N	2W	11	SW NW NW	4	JW-020	ground
31N	2W	34	SW NW NW	4	JW-021	ground
31N	2W	34	SW SW NE	4	JW-022	ground
31N	2W	36	SW NW NW	4	JW-023	ground
31N	2W	25	NW SW NW	4	JW-024	ground
31N	2W	25	NW SW NW	4	JW-025	ground
30N	2W	36	SW NW NE	5	JW-026	ground
30N	1W	6	NW NE SW	5	JW-027	ground
30N	2W	1	SW NE NE	5	JW-028	ground
31N	2W	36	NW SW SE	5	JW-029	ground
30N	2W	1	NE NE NW	5	JW-030	ground
30N	2W	1	SE NE NW	5	JW-031	ground
32N	2W	35	NE NE NW	2	JW-032	ground

b. STOCK SPRINGS

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
32N	3W	24	NE NW NE	2	JS-001	surface
32N	3W	24	SW SW NE	2	JS-002	surface
31N	3W	1	NE SE NW	2	JS-003	surface
31N	2W	6	NE NE NE	2	JS-004	surface
31N	2W	5	SW NE SW	2	JS-005	surface
31N	2W	5	SW SE SW	2	JS-006	surface
31N	2W	8	NE SW NW	2	JS-007	surface
31N	2W	10	SW NE SE	2	JS-008	surface
31N	2W	10	NE SW SE	2	JS-009	surface
31N	2W	15	SW SE SE	2	JS-010	surface
31N	2W	24	SW SW NW	2	JS-011	surface
32N	3W	36	SE NW NW	2	JS-012	surface
32N	3W	36	SE NW NW	2	JS-013	surface

31N 2W 14 SW NE SE	2	JS-014	surface
31N 2W 23 SE NW SE	2	JS-015	surface
31N 2W 23 SW SE SW	2	JS-016	surface
32N 2W 29 SW SW SE	2	JS-017	surface
32N 2W 21 SW NW SW	2	JS-018	surface

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
32N 2W 21 NW NW SW	2	JS-019	surface			
32N 2W 24 NE NE SE	3	JS-020	surface			
31N 1W 21 SW SW SE	3	JS-021	surface			
32N 2W 24 SE NE SE	3	JS-022	surface			
31N 2W 34 SW NW NW	4	JS-023	surface			
31N 2W 34 SE NE SW	4	JS-024	surface			
30N 2W 10 NW SW NE	4	JS-025	surface			
31N 2W 27 SW NE SE	4	JS-026	surface			
30N 2W 2 SE NE SW	4	JS-027	surface			
31N 2W 35 NW NE SE	4	JS-028	surface			
31N 2W 36 NW NW NW	4	JS-029	surface			
31N 2W 25 NW NW SW	4	JS-030	surface			
31N 1W 25 SE SE NW	5	JS-031	surface			
30N 2W 1 NE SE NW	5	JS-032	surface			
30N 1W 6 SE SW SW	5	JS-033	surface			
30N 1W 7 NW NE NE	5	JS-034	surface			
30N 1W 8 SE NW SE	5	JS-035	surface			
30N 1W 17 SW SE NW	5	JS-036	surface			
30N 1W 20 NE NE NW	5	JS-037	surface			
30N 1W 9 SE NE NW	5	JS-038	surface			
30N 1W 16 NE NW NE	5	JS-039	surface			
30N 1E 5 NW NE SE	6	JS-040	surface			
30N 1E 3 NE NE NW	6	JS-041	surface			

B. RECREATION WATER USE

1. RECREATION LAKES

LOCATION				MAP	ID-NO.	SURFACE AREA (acres)	VOLUME (acre-feet)	NET EVAPORATION (acre-feet)
T	R	SEC	1/4					
31N 2W 26 E NE	4	JL-001	93.00	935.00	167.40			
31N 1W 27 S NW	5	JL-002	80.00	1,100.00	144.00			
TOTALS						173.00	2,035.00	311.40

The Tribe has the right to fill and refill the lakes described above to their full capacity as often as waters are available from natural inflow or from water imported from outside the San Juan River Basin.

2. RECREATION USE

POINT OF DIVERSION			SOURCE	MAP	AMOUNT OF WATER	
T	R	SEC			DIVERSION (acre-feet)	DEPLETION (acre-feet)
31N	2W	23 & 26	SURFACE	2	2.07	0.93
31N	1W	27 & 28	SURFACE	2	3.04	1.37
TOTALS					5.11	2.30

C. IRRIGATION WATER USE

1. IMPROVED PASTURE

POINT OF DIVERSION						SOURCE	MAP	ACRES	AMOUNT OF WATER	
T	R	SEC	1/4						DIVERSION (acre-feet)	DEPLETION (acre-feet)
32N	3W	12	SE	NW	SW	NAVAJO RIVER	1	7.0	24.08	8.19
32N	3W	12	NW	SE	SW	NAVAJO RIVER	1	2.0	6.88	2.34
32N	3W	12	SE	SE	SW	NAVAJO RIVER	1	3.0	10.32	3.51
32N	3W	13	NW	NW	NE	NAVAJO RIVER	1	4.0	13.76	4.68
32N	3W	13	SW	SE	NE	NAVAJO RIVER	1	16.0	55.04	18.72
32N	3W	13	NW	NE	SE	NAVAJO RIVER	1	1.0	3.44	1.17
32N	3W	13	SW	NE	SE	NAVAJO RIVER	1	2.0	6.88	2.34
32N	3W	13	NW	SE	SE	NAVAJO RIVER	1	2.0	6.88	2.34
32N	3W	24	NW	NE	NE	NAVAJO RIVER	1	1.0	3.44	1.17
32N	3W	24	SE	NE	NE	NAVAJO RIVER	1	4.0	13.76	4.68
32N	2W	29	NW	SW	SW	NAVAJO RIVER	1	4.0	13.76	4.68
32N	2W	32	NE	SW	NE	NAVAJO RIVER	1	3.0	10.32	3.51
32N	2W	28	NW	SW	SW	NAVAJO RIVER	1	10.0	34.40	11.70
32N	2W	28	SW	NW	SW	NAVAJO RIVER	1	2.0	6.88	2.34
32N	2W	28	SE	SW	NE	NAVAJO RIVER	1	4.0	13.76	4.68
32N	2W	28	NE	NE	NE	NAVAJO RIVER	1	5.0	17.20	5.85
32N	2W	28	NE	NE	NE	NAVAJO RIVER	1	2.0	6.88	2.34
32N	2W	22	SW	SW	SE	NAVAJO RIVER	2	2.0	6.88	2.34
32N	2W	22	SW	SE	SE	NAVAJO RIVER	2	8.0	27.52	9.36
32N	2W	23	SW	NE	SE	NAVAJO RIVER	2	5.0	17.20	5.85
32N	2W	23	SE	NE	SE	NAVAJO RIVER	2	3.0	10.32	3.51
32N	2W	24	NW	SW	SW	NAVAJO RIVER	2	3.0	10.32	3.51
32N	2W	24	SE	NW	SW	NAVAJO RIVER	2	4.0	13.76	4.68
32N	2W	24	NW	SE	SW	NAVAJO RIVER	2	3.0	10.32	3.51
32N	2W	24	SW	SE	SE	NAVAJO RIVER	2	9.0	30.96	10.53
32N	2W	25	NW	NE	NE	NAVAJO RIVER	2	5.0	17.20	5.85
32N	1W	30	NW	NW	NW	NAVAJO RIVER	2	3.0	10.32	3.51
32N	1W	30	SW	NW	NW	NAVAJO RIVER	2	4.0	13.76	4.68
32N	1W	30	NW	SE	NW	NAVAJO RIVER	2	4.0	13.76	4.68
32N	1W	30	SE	NE	NE	NAVAJO RIVER	2	4.0	13.76	4.68
32N	1W	29	NE	NE	NW	NAVAJO RIVER	2	5.0	17.20	5.85
31N	2W	10	NE	SW	SE	SAWMILL CANYON	3	11.5	39.56	13.45
31N	2W	21	SW	NW	SE	SAWMILL CANYON	3	7.0	24.08	8.19
31N	2W	24	NW	SW	SW	DULCE CREEK	4	834.0	2,868.96	975.78
31N	2W	34	SW	NW	NW	DULCE CREEK	5	14.0	48.16	16.38
31N	2W	35	NE	NE	NE	DULCE CREEK	5	17.0	58.48	19.89
31N	2W	35	SW	SW	SE	DULCE CREEK	5	6.0	20.64	7.02
31N	2W	36	SE	NE	SW	CORDOVA CANYON	6	9.0	30.96	10.53
30N	2W	1	NE	NW	NE	CORDOVA CANYON	6	28.0	96.32	32.76

30N	1W	6	NW	NE	SW	CORDOVA CANYON	6	31.0	106.64	36.27
30N	1W	7	NE	NE	NE	CORDOVA CANYON	6	3.0	10.32	3.51
30N	1W	8	NW	SW	SE	CORDOVA CANYON	6	10.0	34.40	11.70
30N	1W	9	SW	NW	SW	CORDOVA CANYON	6	14.0	48.16	16.38

No more than 1,018.12 acres may be irrigated in any one calendar year within the 1,118.5 acres with irrigation water rights. The amounts of water for the irrigation of 1,018.12 acres shall not exceed a diversion of 3,503.53 acre-feet per year or a beneficial consumptive use of 1,191.20 acre-feet per year, whichever is less.

2. NATIVE PASTURE

POINT OF DIVERSION						SOURCE	MAP	ACRES	AMOUNT OF WATER	
T	R	SEC	1/4						DIVERSION (acre-feet)	DEPLETION (acre-feet)
32N	2W	23	SW	NW	SE	NAVAJO RIVER	2	3.0	2.16	1.08
32N	1W	30	NW	NE	NW	NAVAJO RIVER	2	14.0	10.08	5.04
31N	2W	12	SE	NE	NE	DULCE CREEK	4	29.0	20.88	10.44
31N	2W	36	SW	NW	NE	CORDOVA CANYON	6	13.0	9.36	4.68
30N	1W	8	NE	NE	NW	CORDOVA CANYON	6	2.0	1.44	0.72

No more than 60.14 acres may be irrigated in any one calendar year within the 61.0 acres with irrigation water rights. The amounts of water for the irrigation of 60.14 acres shall not exceed a diversion of 43.30 acre-feet per year or a beneficial consumptive use of 21.65 acre-feet per year, whichever is less.

D. COMMERCIAL, MUNICIPAL AND DOMESTIC WATER USE

POINT OF DIVERSION						SOURCE	MAP	AMOUNT OF WATER	
T	R	SEC	1/4					DIVERSION (acre-feet)	DEPLETION (acre-feet)
32N	1W	30	N	SW	NE	surface ground	2 2	379.64	340.89
DULCE & VICINITY									
TOTALS								387.23	344.31

II. SAN JUAN RIVER BASIN (except Navajo River Basin)

A. LIVESTOCK WATER USE

1. STOCK PONDS

<u>PLACE OF USE</u>		<u>SURFACE AREA</u> <u>(acres)</u>	<u>VOLUME</u> <u>(acre-feet)</u>	<u>NET EVAPORATION</u> <u>(acre-feet)</u>
All stock ponds described in the U.S. Hydrographic Survey Report.	Totals:	564.25	1,467.34	1,255.90

The locations, sources, surface areas, and volumes of individual stock ponds, and the net evaporation from each pond, are identified and described in the United States Hydrographic Survey Report attached to the joint motion as Exhibit E. The Tribe has the right to fill and refill each identified stock pond to its full capacity as often as waters are available from natural inflow or from water imported from outside the San Juan River Basin.

2. STOCK AND WILD GAME USE

<u>PLACE OF USE</u>	<u>NO. OF</u> <u>ANIMAL UNITS</u>	<u>AMOUNT OF WATER</u> <u>DIVERSION</u> <u>(acre-feet)</u>	<u>DEPLETION</u> <u>(acre-feet)</u>
At stock wells and springs described below and stock ponds described in the U.S. Hydrographic Survey Report.	5,808	97.59	97.59

The foregoing diversion and depletion amounts are the amounts of water consumed by stock and wild game from the stock wells and springs listed below and the stock ponds described in the United States Hydrographic Survey Report attached to the joint motion as Exhibit E.

a. STOCK WELLS

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
31N	3W	10	NE NW NE	1	JW-001	ground
31N	3W	34	NE SE SW	3	JW-002	ground
30N	3W	6	NE NW NW	3	JW-003	ground
30N	3W	8	SE NW SW	3	JW-004	ground
30N	3W	20	SW NW NE	3	JW-005	ground
30N	3W	29	NE SW NW	3	JW-006	ground
30N	3W	32	SW SE SW	3	JW-007	ground
30N	2W	18	NE NW SE	4	JW-008	ground
30N	2W	16	SE SE NW	4	JW-009	ground
30N	3W	23	NE NW NW	4	JW-010	ground
30N	2W	21	NE NE SE	4	JW-011	ground
30N	2W	29	NE SE NE	4	JW-012	ground
30N	2W	29	NE SE NW	4	JW-013	ground
30N	2W	29	SE NE NW	4	JW-014	ground
30N	2W	21	SE SW SE	4	JW-015	ground
30N	1W	29	SE NW SW	5	JW-016	ground
30N	2W	36	SW SE NE	5	JW-017	ground
30N	1W	32	SE SW SE	5	JW-018	ground
29N	3W	29	SW NE NE	6	JW-019	ground
29N	3W	19	NW SE NE	6	JW-020	ground
29N	3W	20	NE SW NE	6	JW-021	ground

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
29N	2W	22	SE SE SE	7	JW-022	ground
29N	2W	30	SE SW NE	7	JW-023	ground
29N	2W	18	NW SW SW	7	JW-024	ground
29N	2W	15	SE SE NW	7	JW-025	ground
29N	2W	15	SW SE SW	7	JW-026	ground
29N	2W	15	SE SE SW	7	JW-027	ground
29N	2W	9	NW SW NW	7	JW-028	ground
28N	2W	4	NW SW SE	7	JW-029	ground
29N	3W	11	NE SE SW	7	JW-030	ground
29N	2W	26	NW NE SE	7	JW-031	ground
29N	2W	12	NW NW SE	7	JW-032	ground
29N	2W	13	SW SE SE	8	JW-033	ground
26N	5W	4	SE NW NW	10	JW-034	ground
26N	5W	2	NE SE NW	10	JW-035	ground
27N	3W	17	NW NW SW	11	JW-036	ground
26N	3W	7	SE SW NW	11	JW-037	ground
26N	3W	8	NE NE NE	11	JW-038	ground
27N	3W	30	SW SW SE	11	JW-039	ground
28N	3W	33	NE SW NE	11	JW-040	ground
28N	2W	33	SW SW NE	12	JW-041	ground
28N	2W	35	SE NW SW	12	JW-042	ground
27N	2W	4	SW NE NE	12	JW-043	ground
27N	2W	2	NW SE NE	12	JW-044	ground
26N	3W	2	NW NW SW	12	JW-045	ground
25N	5W	29	NW NE NE	14	JW-046	ground
25N	5W	8	SW NW NE	14	JW-047	ground
26N	4W	17	SE NE SE	15	JW-048	ground
26N	4W	18	SE SW SW	15	JW-049	ground
26N	4W	31	NE NW NW	15	JW-050	ground
26N	5W	35	NE SE NE	15	JW-051	ground

26N 5W 27	NW NE NE	15	JW-052	ground
25N 3W 3	NE SE NW	15	JW-053	ground
25N 5W 21	SW SW SW	15	JW-054	ground
26N 4W 16	SW NE SW	15	JW-055	ground
25N 5W 22	SW NW SE	15	JW-056	ground
26N 4W 15	NW SE NW	16	JW-057	ground
26N 3W 18	SE NW NW	16	JW-058	ground
26N 3W 29	SW NE NW	16	JW-059	ground
25N 4W 12	NE SW NW	16	JW-060	ground
25N 4W 22	SE SE SE	16	JW-061	ground
25N 4W 22	NW SE NW	16	JW-062	ground
26N 4W 23	SW NE SW	16	JW-063	ground
26N 4W 11	NE SW SE	16	JW-064	ground
26N 3W 32	NE SW NW	16	JW-065	ground
26N 3W 31	NE NE NE	16	JW-066	ground
26N 3W 31	NE NE NE	16	JW-067	ground
25N 4W 12	NE SW NW	16	JW-068	ground
26N 3W 14	SW NW NE	17	JW-069	ground
26N 3W 23	SE SE NW	17	JW-070	ground
25N 5W 32	SE NW SE	18	JW-071	ground
25N 5W 27	SE NW SE	19	JW-072	ground
24N 5W 2	NW NW NW	19	JW-073	ground
24N 4W 6	SE NW NE	19	JW-074	ground
24N 4W 9	NW SE NE	19	JW-075	ground
24N 4W 29	SW NW NE	19	JW-076	ground
24N 4W 28	SE SW NE	19	JW-077	ground
24N 5W 36	SE NE SW	19	JW-078	ground
24N 4W 4	NW NW SE	19	JW-079	ground
24N 5W 23	NE NE SE	19	JW-080	ground

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
24N 4W 1	SE SW SW	20	JW-081	ground		
24N 4W 24	NE NE SW	20	JW-082	ground		
24N 4W 10	NW SW NW	20	JW-083	ground		
23N 2W 3	NW NW SE	21	JW-084	ground		
23N 5W 17	SW SE NW	22	JW-085	ground		
23N 5W 19	SE SE SE	22	JW-086	ground		
22N 5W 5	SE SW NW	22	JW-087	ground		
22N 5W 8	SW SW NE	22	JW-088	ground		
23N 4W 5	SE NW SE	23	JW-089	ground		
23N 4W 7	NW NE SE	23	JW-090	ground		
23N 4W 21	SW NE SE	23	JW-091	ground		
23N 5W 23	NW SE SE	23	JW-092	ground		
22N 4W 7	NE SW NW	23	JW-093	ground		
22N 5W 12	SE NE NW	23	JW-094	ground		
22N 5W 10	NE SW NE	23	JW-095	ground		
22N 5W 15	SE SE SW	23	JW-096	ground		
22N 4W 17	NE SW SE	23	JW-097	ground		
23N 3W 11	NW SW SW	24	JW-098	ground		
23N 3W 19	NE NW SW	24	JW-099	ground		
22N 3W 6	SW SW SW	24	JW-100	ground		
22N 4W 14	NW NE NE	24	JW-101	ground		
22N 3W 9	NE NE SW	24	JW-102	ground		
22N 4W 14	SE SW SE	24	JW-103	ground		
23N 3W 15	SW NE NE	24	JW-104	ground		
23N 4W 22	SE SE NE	24	JW-105	ground		
22N 3W 9	NW NW SW	24	JW-106	ground		
23N 2W 13	NW SE SW	25	JW-107	ground		
23N 2W 31	NW NW SW	25	JW-108	ground		
22N 2W 8	NE NE NW	25	JW-109	ground		

22N 2W	19	NW NW NW	25	JW-110	ground
23N 3W	12	NE NE NE	25	JW-111	ground
22N 5W	20	SE SE NE	27	JW-112	ground
22N 5W	24	NW SW SE	28	JW-113	ground
22N 4W	20	NE SE SE	28	JW-114	ground
22N 5W	22	NW SW NE	28	JW-115	ground
22N 4W	31	SW SW NE	28	JW-116	ground
22N 3W	29	SE SW SW	29	JW-117	ground
22N 3W	26	SW NE NE	30	JW-118	ground
22N 2W	21	SE SW NW	30	JW-119	ground

b. STOCK SPRINGS

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
31N 3W	6	SE SW SW		1	JS-001	surface
31N 3W	18	NW NE SW		1	JS-002	surface
31N 3W	18	NW SE SE		1	JS-003	surface
31N 3W	23	NE NE NE		2	JS-004	surface
30N 3W	3	NW SW SW		3	JS-005	surface
30N 3W	14	SW SW SW		3	JS-006	surface
29N 3W	6	NE NW NW		3	JS-007	surface
30N 3W	9	NE NW SW		3	JS-008	surface
30N 3W	22	NE SE SE		3	JS-009	surface
31N 3W	25	SW SE NE		4	JS-010	surface
30N 2W	22	NE SW NE		4	JS-011	surface
30N 3W	25	SW NE SE		4	JS-012	surface
30N 3W	25	NE NE SW		4	JS-013	surface
30N 3W	25	NE NW SE		4	JS-014	surface

POINT OF DIVERSION				MAP	ID-NO.	SOURCE
T	R	SEC	1/4			
30N 2W	29	NW SW NE		4	JS-015	surface
30N 1W	33	NE NE NW		5	JS-016	surface
29N 1W	6	SW NE NW		5	JS-017	surface
29N 3W	20	NE NW NE		6	JS-018	surface
29N 3W	20	SE NW NE		6	JS-019	surface
27N 3W	8	NE SE NW		11	JS-020	surface
26N 5W	32	NW SW NW		14	JS-021	surface
26N 5W	31	NW SW NE		14	JS-022	surface
25N 4W	1	SW SW NE		16	JS-023	surface
26N 5W	35	NE NW SW		16	JS-024	surface
24N 5W	32	NE NE NE		18	JS-025	surface
24N 5W	32	SE NE NW		18	JS-026	surface
24N 5W	32	NE SE NW		18	JS-027	surface
24N 5W	28	SW SE SW		19	JS-028	surface
23N 5W	20	NE NW SE		22	JS-029	surface
22N 5W	20	SW NE SE		22	JS-030	surface
22N 5W	8	NE NE SW		22	JS-031	surface
22N 3W	21	NW NE SE		29	JS-032	surface

B. RECREATION WATER USE

1. RECREATION LAKES

LOCATION				MAP	ID-NO.	SURFACE AREA (acres)	VOLUME (acre-feet)	NET EVAP (acre-feet)
T	R	SEC	1/4					
30N	2W	30	S SE	4	JL-001	76.00	205.20	152.00
29N	2W	35	E SE SE	7	JL-002	17.00	45.90	34.00
29N	2W	12	SE NW	8	JL-003	110.00	780.00	220.00
TOTALS						203.00	1,031.10	406.00

The Tribe has the right to fill and refill the lakes described above to their full capacity as often as waters are available from natural inflow or from water imported from outside the San Juan River Basin.

2. RECREATION USE

POINT OF DIVERSION				SOURCE	MAP	AMOUNT OF WATER	
T	R	SEC	1/4			DIVERSION (acre-feet)	DEPLETION (acre-feet)
29N	2W	12	SE NW	JL-003	8	2.07	0.93

C. IRRIGATION WATER USE

POINT OF DIVERSION				SOURCE	MAP	ACRES	AMOUNT OF WATER	
T	R	SEC	1/4				DIVERSION (acre-feet)	DEPLETION (acre-feet)
30N	2W	22	NE SW NE	BURNS CANYON	1	5.0	16.75	5.70
30N	2W	30	NW SW SE	JOHN MILLS LAKE	1	62.0	207.70	70.68
29N	2W	12	NE NW SW	LA JARA CREEK	2	394.0	1,319.90	449.16

No more than 454.9 acres may be irrigated in any one calendar year within the 461.0 acres with irrigation water rights. The amounts of water for the irrigation of 454.9 acres shall not exceed a diversion of 1,525.35 acre-feet or a beneficial consumptive use of 518.62 acre-feet per year, whichever is less.

D. COMMERCIAL AND DOMESTIC WATER USE

POINT OF DIVERSION <u>T R SEC 1/4</u>	SOURCE	MAP	AMOUNT OF WATER	
			<u>DIVERSION</u> (acre-feet)	<u>DEPLETION</u> (acre-feet)
LA JARA AND VICINITY	SURFACE & GROUND		1.38	0.62

* * *

5. Historic water rights acquired under state law. The Jicarilla Apache Tribe has reserved water rights for all historic water rights perfected under state law and located within the lands proclaimed as part of the Jicarilla Apache Indian Reservation on September 13, 1988. The total annual quantities of water to which the Tribe has a reserved water right for historic and existing uses shall not exceed an annual diversion or depletion of 0.34 acre-feet, and a net evaporation of 5.13 acre-feet. These water rights and the priority dates therefor are described below. The following descriptions are not intended to prohibit changes in the point of diversion, or purpose or place of water use of the Tribe's reserved water rights under federal law. The conditions, if any, under which the Tribe may make such changes are reserved for the Court's continuing jurisdiction to administer and enforce this decree, as provided in paragraph 8.

NAVAJO RIVER BASIN (THEIS RANCH)

A. LIVESTOCK WATER USE

1. STOCK PONDS

<u>PLACE OF USE</u>	<u>SURFACE AREA</u> (acres)	<u>VOLUME</u> (acre-feet)	<u>NET EVAPORATION</u> (acre-feet)
All stock ponds described in the U.S. Hydrographic Survey Report.	2.70	7.02	5.13

Priority Date: June 27, 1985

The location, source, surface area, and volume of these stock ponds, and the net evaporation from these ponds, are identified and described in the United States Hydrographic Survey Report attached to the joint motion as Exhibit E. The Tribe has the right to fill and refill these stock ponds to their full capacity as often as waters are available from natural inflow or from water imported from outside the San Juan River Basin.

2. STOCK AND WILD GAME USE

<u>PLACE OF USE</u>	<u>NO. OF ANIMAL UNITS</u>	<u>AMOUNT OF WATER</u>	
		<u>DIVERSION (acre-feet)</u>	<u>DEPLETION (acre-feet)</u>
At stock ponds described in the U.S. Hydrographic Survey Report.	20	0.34	0.34

Priority Date: June 27, 1985

* * *

6. Conditions. The Jicarilla Apache Tribe is hereby enjoined from the diversion or depletion of the surface or underground waters within the San Juan River Basin except in accordance with the rights described in this decree or any supplemental decrees adjudicating water rights acquired by the Tribe after the entry of this decree, or in accordance with state permits for lands acquired after September 13, 1988. This decree is binding upon successors and assigns. Nothing in this decree shall be construed to limit the right of the Tribe to withdraw and use groundwater within the topographic boundaries of the San Juan River Basin which withdrawal and use does not deplete the surface flows of the San Juan River system.

7. Disclaimers. Nothing contained in this decree is intended to confer jurisdiction on the State Engineer of New Mexico to administer or regulate the use of federally reserved water rights within the Jicarilla Apache Reservation nor does this decree limit the authority of the State Engineer to administer the public waters of the San Juan River Basin outside of the reservation as otherwise provided by law. Because the description of the Tribe's water rights adjudicated in this decree is based upon a negotiated settlement by the aforesaid parties, the procedures and methods used to quantify and describe the Tribe's water rights in this decree shall not be binding under the law of the case doctrine upon any other water right claimant, the state, or the United States in the adjudication of other water rights in this case and should not be relied upon as precedent under the stare decisis doctrine in any other water right adjudication suit. Nothing herein is intended to adjudicate or encumber the water rights in New Mexico State Engineer File Nos. 2848, 3215 or combined permits 2847, 2849, 2873 and 2917, except for the 40,000 acre-feet per year of water specifically adjudicated to the Jicarilla Tribe herein.

8. Retained jurisdiction. This Partial Final Decree is a final order under Rule 1-054(C) NMRA 1996, and it may be modified only pursuant to Rule 1-060(B) NMRA 1996. This court retains jurisdiction for the administration and enforcement of the rights adjudicated in this decree, including entry of such supplemental orders as are necessary for the administration of this decree.

9. Records of water use. The Jicarilla Apache Tribe shall maintain records and perform calculations of its actual diversions and depletions of San Juan River Basin waters, and on or before October 1 of each year the Tribe shall prepare and submit to the Secretary of the Interior a report of its records and calculations of those diversions and depletions for the previous calendar year.

10. Change of use. Changes in point of diversion, or purpose or place of use of a water right from a location within the Jicarilla Apache trust lands to a location outside of said lands shall be in accordance with state law, provided that the Tribe may later change the point of diversion, or purpose or place of use of the water right to which the Tribe retains an ownership interest back to a place of use within the Jicarilla Apache trust lands without reduction in the amounts of water adjudicated in this decree.

11. Notice. In addition to any notice provisions under applicable law, at least 10 days prior to any change in the place or purpose of use or point of diversion in the exercise of the water rights identified herein or any withdrawal of ground water above amounts set forth herein, the Tribe shall give notice of such change or withdrawal by publication in a newspaper of general circulation within the stream system once per week for three consecutive weeks.

DATED:

2/22/99

Stanley P. Forest
Judge Pro Tempore