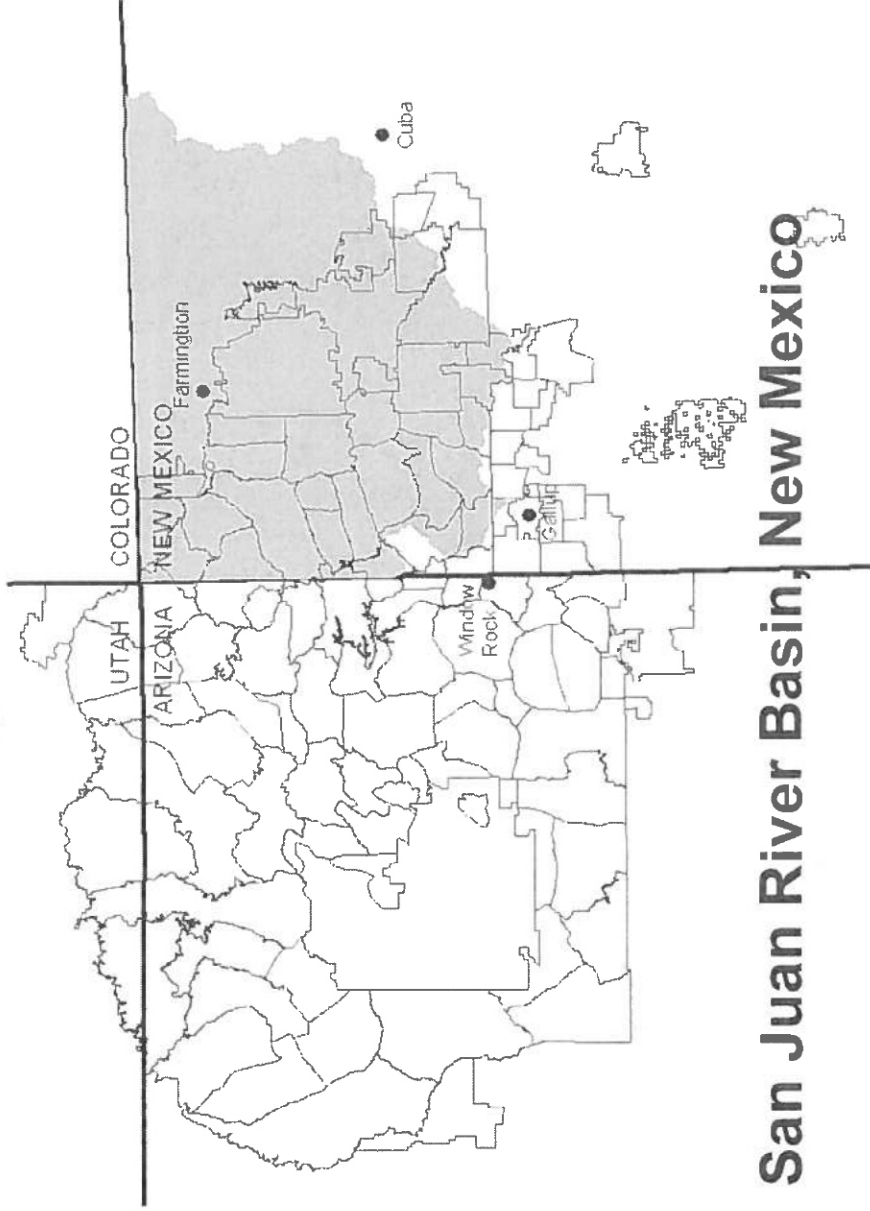


# July 9, 2004 Draft - Navajo Nation Water Rights Settlement



## San Juan River Basin, New Mexico

Navajo Nation Dept. of Water Resources presentation to the NM Indian Affairs Committee - July 9, 2004

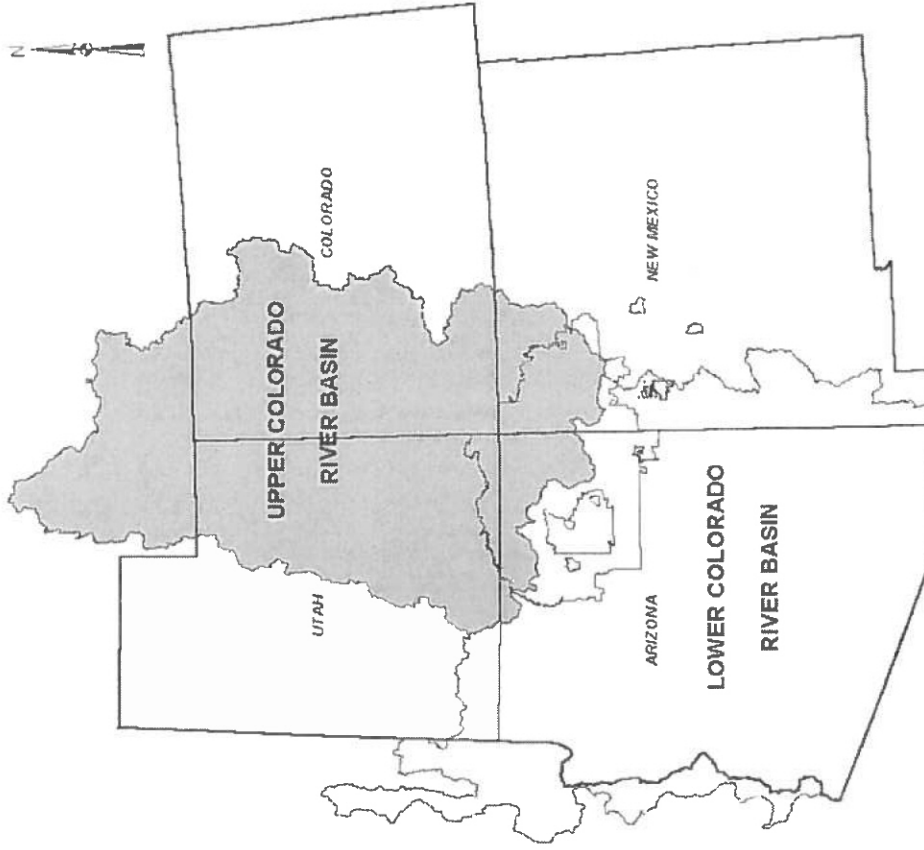
SJ-17 Navajo Settle.

**THIS PRESENTATION IS A SUMMATION AND DOES NOT REPRESENT A SETTLEMENT DOCUMENT**

It is expressly understood that the governing bodies or authorities of the State of New Mexico, the Navajo Nation and the United States have not approved a settlement or settlement documents.

# Upper Colorado River Basin Compact of 1948

## COLORADO RIVER BASIN



- Allocates 50,000 acre-feet of consumptive use to Arizona in Upper Basin
- Apportions water to Upper Basin States:
  - Colorado 51.75%
  - New Mexico 11.25%
  - Utah 23.00%
  - Wyoming 14.00%

Note: The Hydrologic Determination in 1989 shows the Upper Basin as having a firm yield of 6.0 million acre-feet per year once downstream Compact delivery obligations are accounted for.

# 11.25%

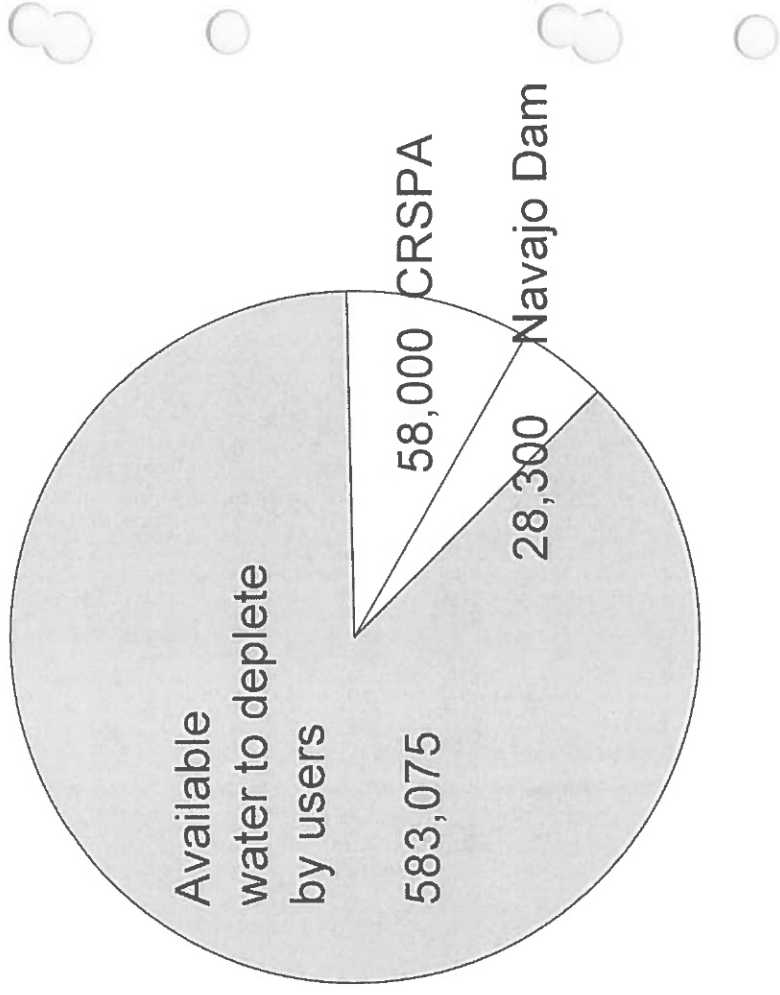
- The water yield to the Colorado River from New Mexico is only “3%”
- Recognition of the potential claims by the San Juan Basin Indian communities resulted in New Mexico being granted 11.25% of the Upper Basin Supply.

Note: this is a place holder.

# New Mexico's Upper Basin Allocation is 669,375 acre-feet

Some of New Mexico's allocation goes toward reservoir evaporation.

Only 583,075 acre-feet is available for use by New Mexico.



1 acre-foot = 325,851 gallons

# Proposed Navajo Nation

## Water Right

San Juan River Basin in New Mexico

Right to Use (Diversion):

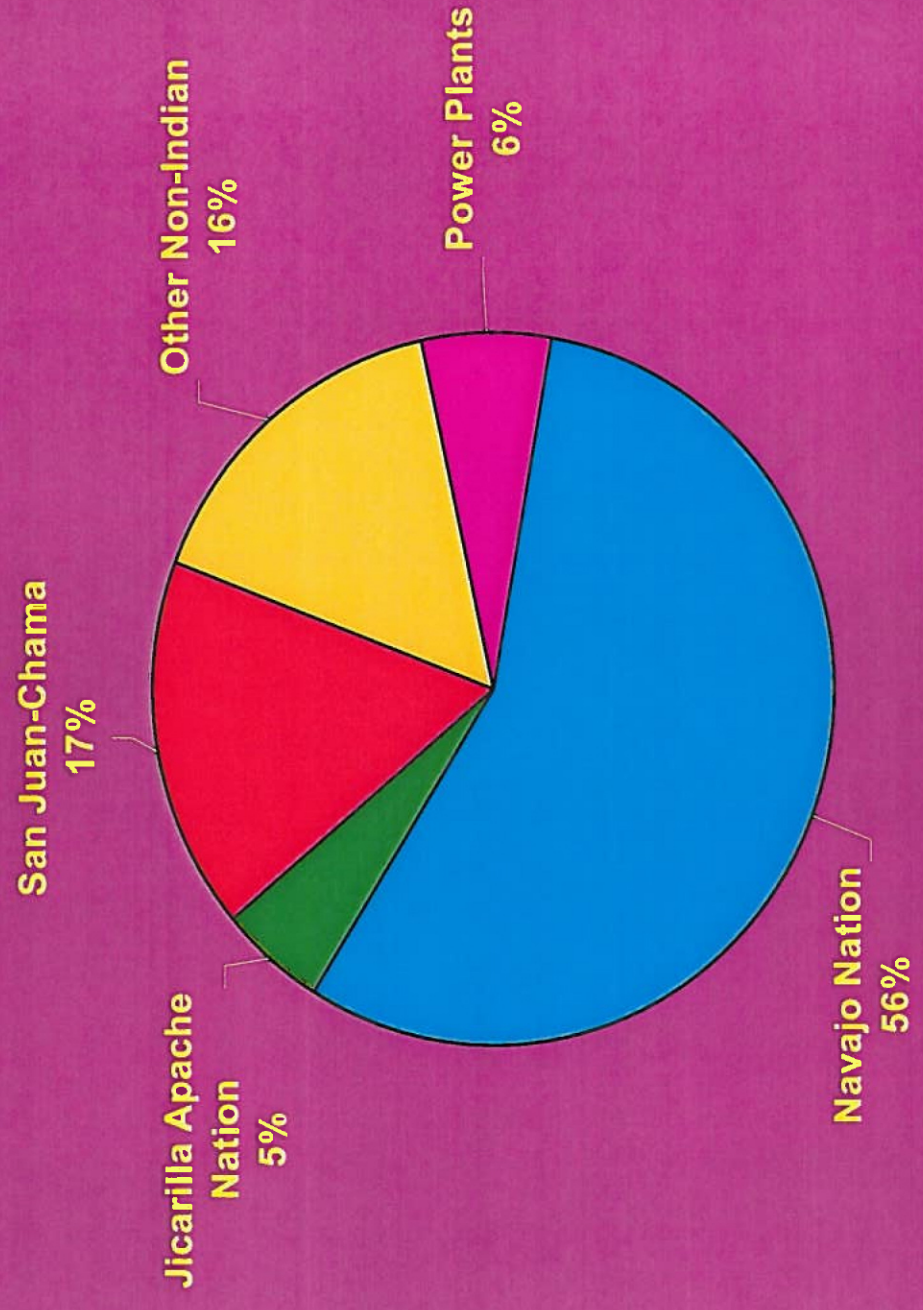
606,060+ acre-feet per year

Right to Consume (Deplete):

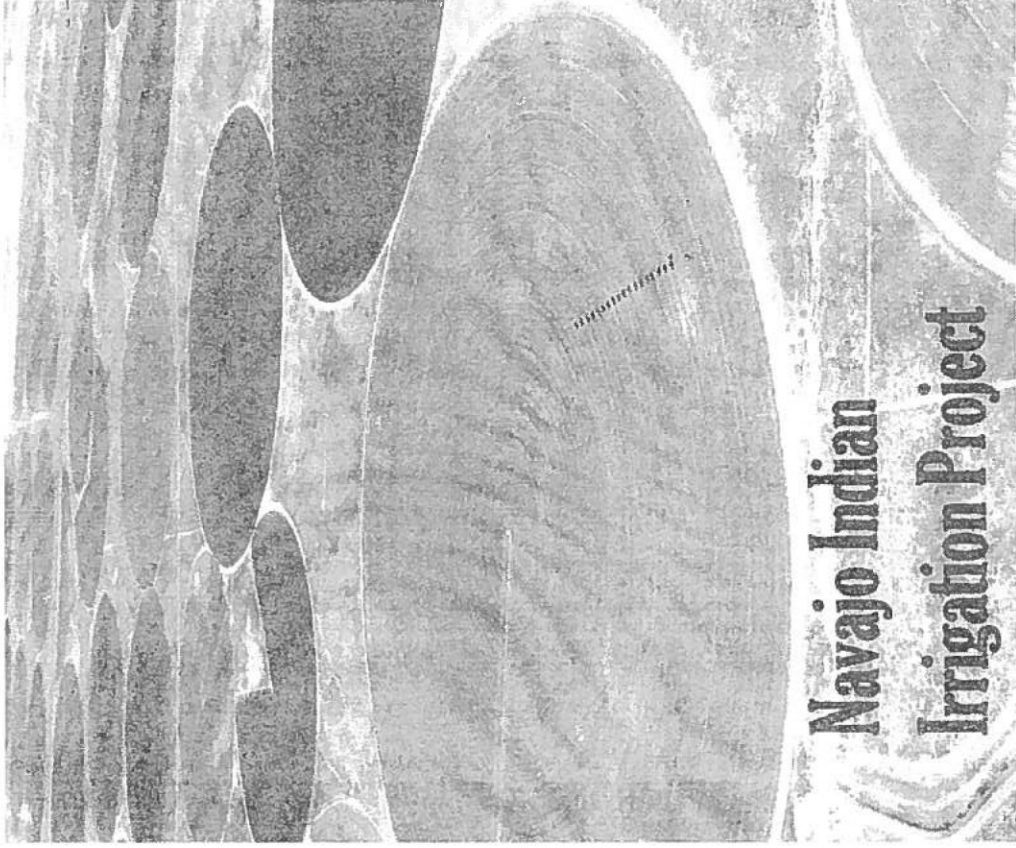
325,370 acre-feet per year

50% of any additional apportionment

# San Juan River Depletions



# NIP



**Navajo Indian  
Irrigation Project**

**110,630 Acres**

**Diversion Right: 508,000 afy**

**Depletion Right: 270,000 afy**

**1868 Priority satisfied out of  
Navajo Reservoir storage.**

**Right to reuse tail water, so  
long as the depletion is not  
increased.**

**Water right transferable to  
other uses by Navajo Nation.**

# 1868 Reserved Right and Navajo Dam Storage Right

All Navajo Reserved Water Rights have a priority of June 1, 1868, based on the Treaty of 1868.



The 1868 priority is not asserted for NIIP or Navajo-Gallup unless water from Navajo Dam is “irretrievably lost.”





Fruitland-Cambridge

**3,335 Acres**

**Diversion Right: 18,180 afy**

**Depletion Right: 7,970 afy**

**1868 Priority**

**\$7.7 Million for Rehabilitation**

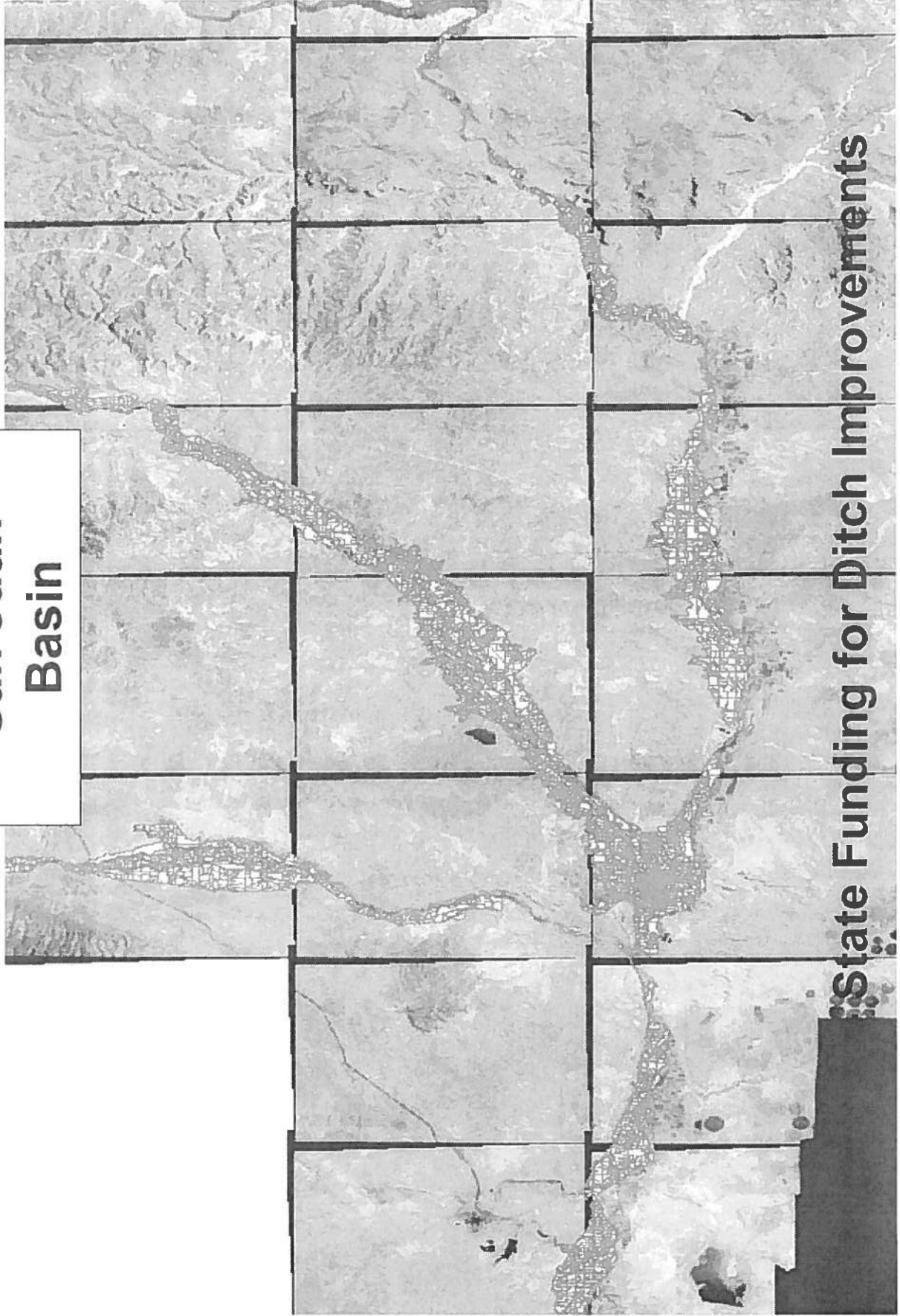
**Alternate Water Supply**

Hogback, Cudei, Area 7

**8,830 Acres**  
**Diversion Right: 48,550 afy**  
**~~Depletion Right: 21,266 afy~~**  
**1868 Priority**  
**\$15.7 Million for Rehabilitation**  
**Alternate Water Supply**

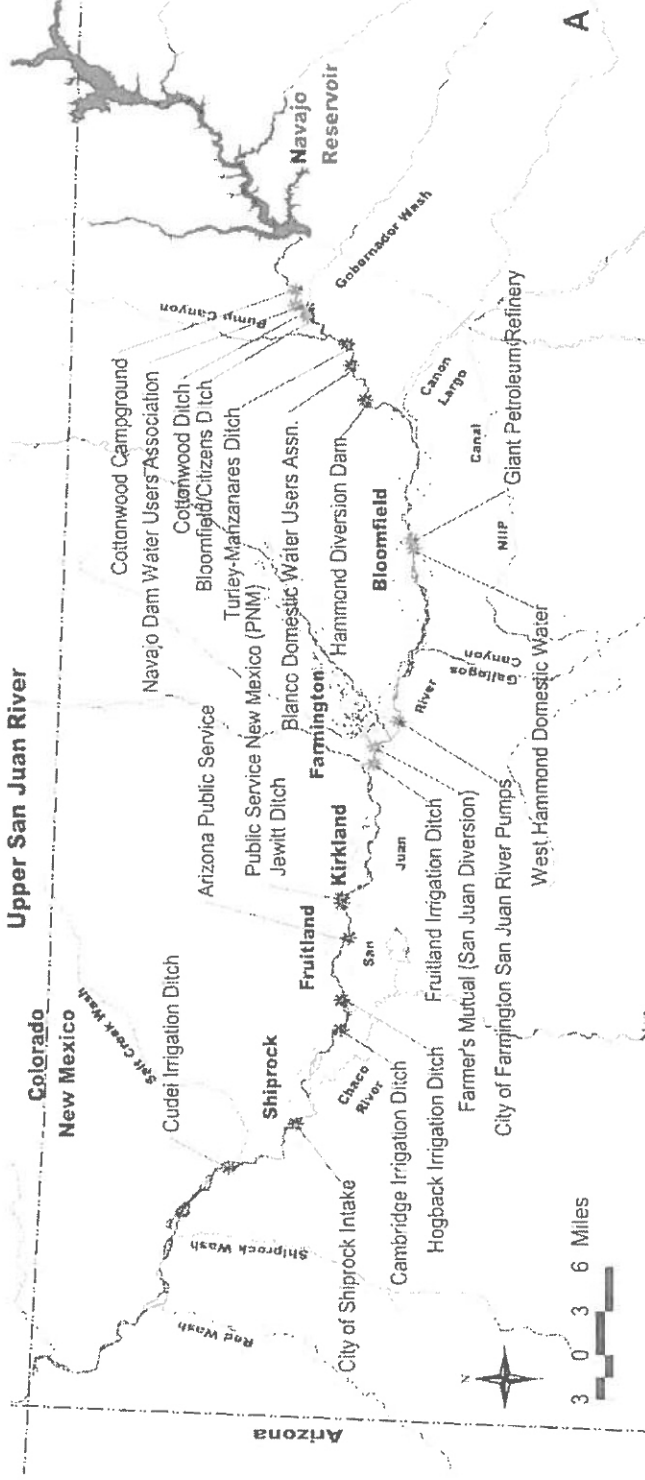
4 Miles

**San Juan  
Basin**



**State Funding for Ditch Improvements**

# Alternate Water Supply



- Pre-approved transfer of NIP water right, within authorized depletion.
- Hogback & Fruitland to receive up to 15,000 AF/yr out of NIP water supply, so long as no shortage occurs in NIP water supply.
- Depletions are charged against NIP; NIP depletions increased to 270,000 AF/yr to allow protection of wet water supply for Hogback and Fruitland.
- Eliminates need to assert “call” against other water users in most years.
- Increases NIP flexibility through ten (10) year average.

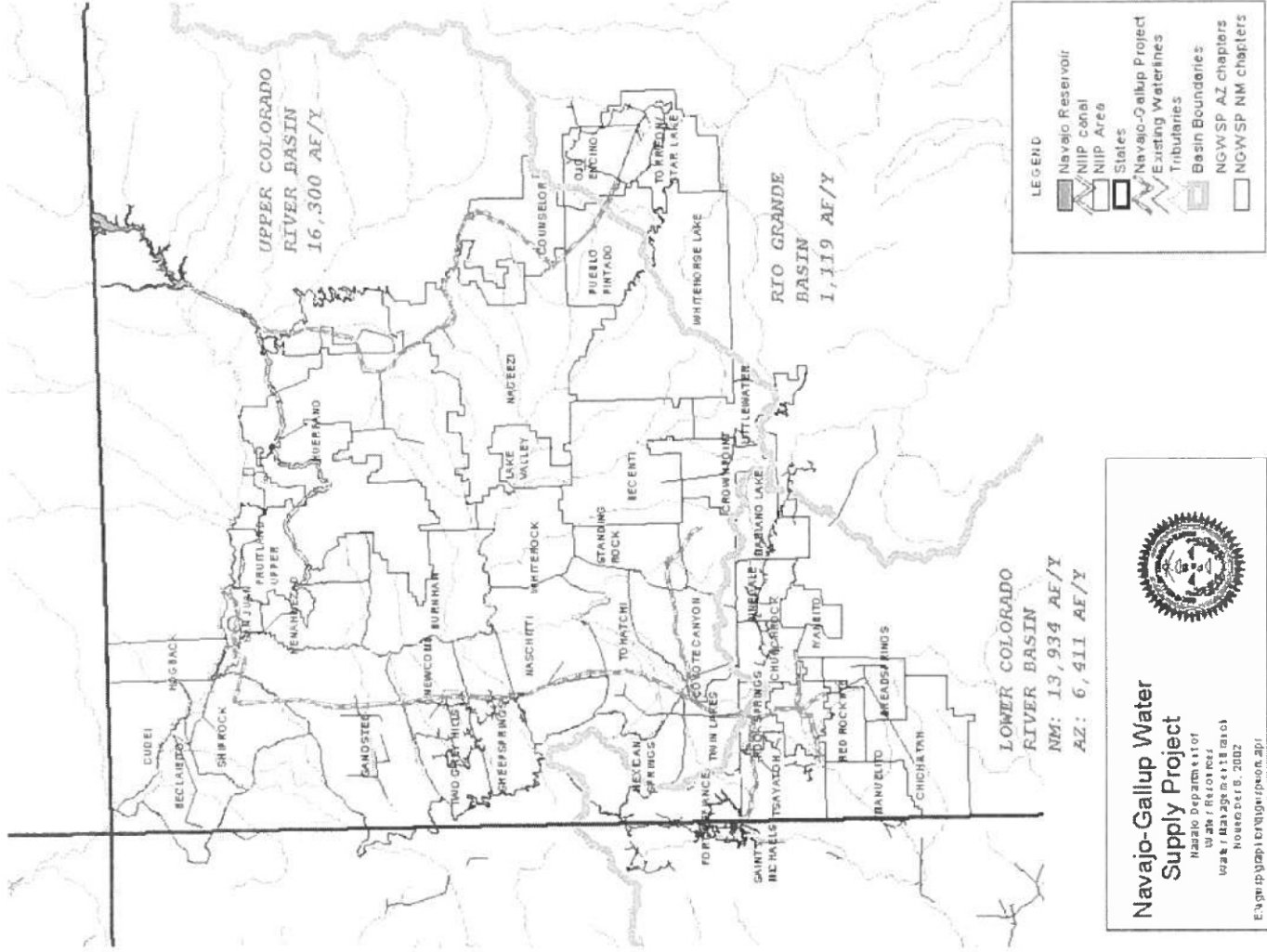
# Navajo-Gallup Water Supply Project

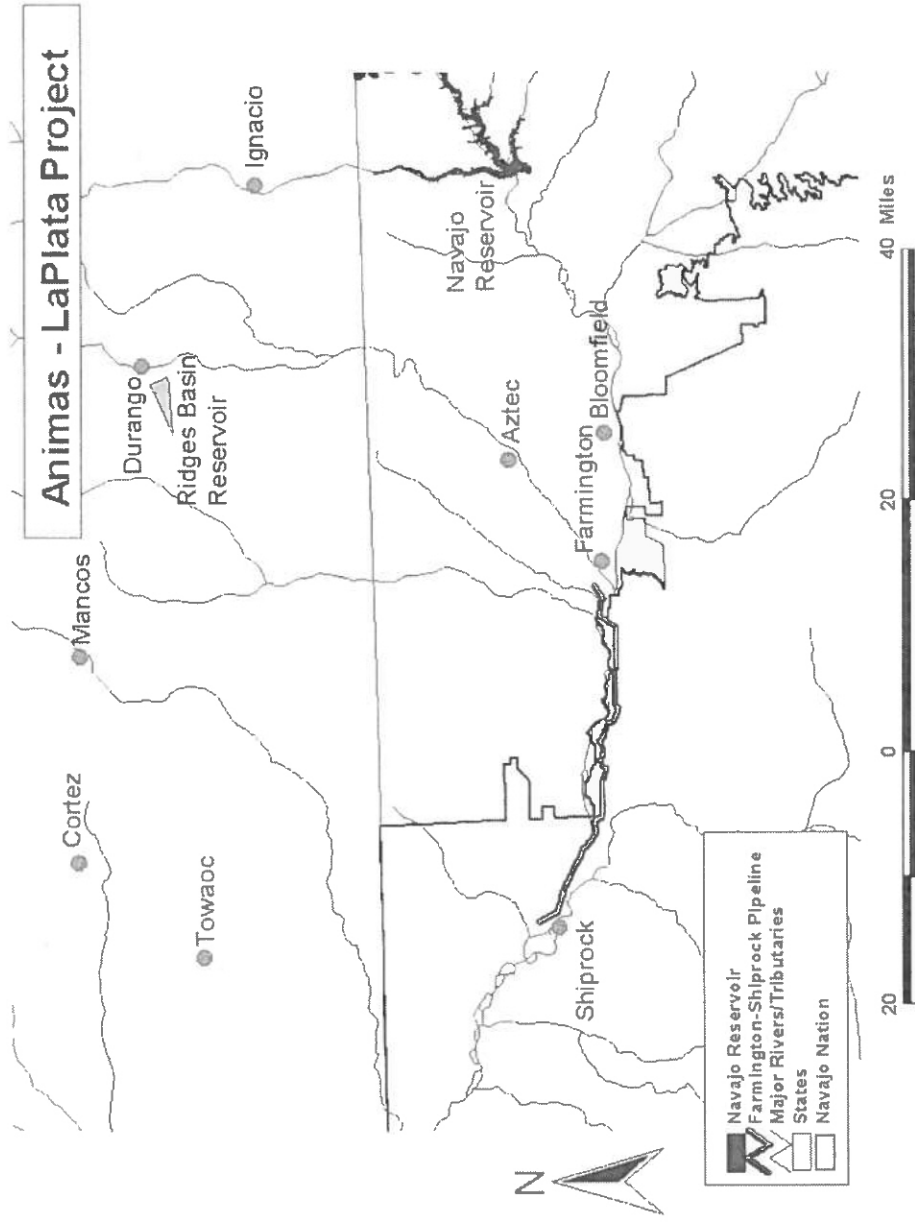
Total Diversion: 37,760 acre-feet  
 Total Depletion: 35,890 acre-feet  
 Settlement Depletion: 20,780 acre-feet

Navajo in NM: 20,780 acre-feet  
 Navajo In AZ: 6,410 acre-feet  
 City of Gallup: 7,500 acre-feet  
 Jicarilla Apache: 1,200 acre-feet  
 Total: 35,890

Navajo uses in Arizona water to come from Arizona's allocation of water. City of Gallup needs to find its own supply of water. Jicarilla Apache will use its decreed water rights in New Mexico.

The Project is designed so that each chapter shown on the map would get enough water to meet the projected demands for the 2040 population. Some chapters would get conjunctive ground water development. Water for community development is included.



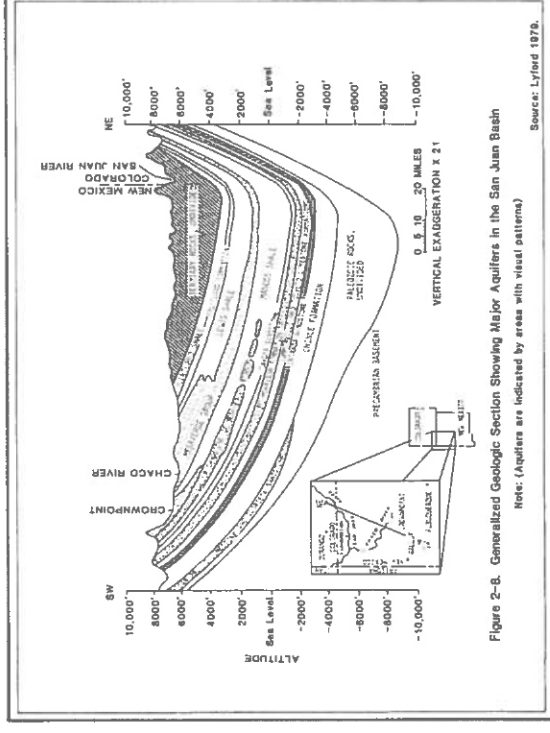


# ALP

Municipal water for Upper Fruitland, Nenahnezad, San Juan, Hogback, Shiprock, and Gadahii.  
 4,680 Diversion/2,340 Depletion

# Ground Water

- 2,000 AF/yr (1868 Priority)
- Navajo administration on trust lands
- OSE administration on fee lands
- NTUA AZ/NM Systems
- Right to additional ground water:
  - Subject to non-impairment of existing ground water users.
  - Depletions > 2,000 AF/yr from San Juan River subject to offset plan approved by OSE.



# Miscellaneous Uses



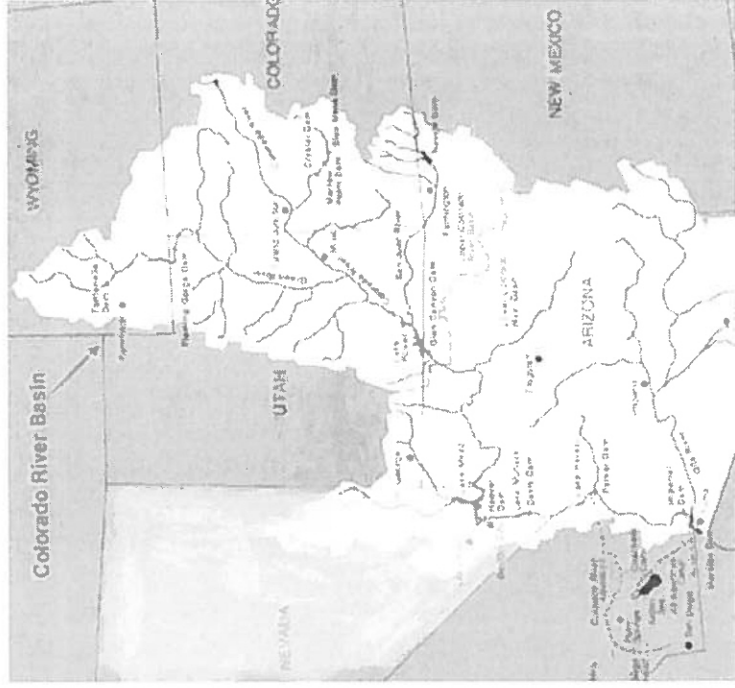
**Additional water, including small irrigation projects, stockponds, stockwells, and livestock uses to be added after hydrographic survey. 1868 Priority.**



# Proposed Navajo Nation Water Rights Settlement

Components	Annual Diversion [acre-feet]	Annual Depletion [acre-feet]	Project Cost
Navajo Indian Irrigation Project (farm 110,630 acres)	508,000	270,000	\$372,800,000
Fruitland-Cambridge Irrigation Project (3,335 acres)	18,180	7,970	\$7,700,000
Hogback-Cudei Irrigation Project (8,830 acres)	48,550	21,280	\$15,700,000
Extra diversion for irrigation projects	No # limit	0	
Navajo's share of Navajo-Gallup Water Supply Project ( City of Gallup (approx. \$110.1 million) and Jicarilla Apache Nation (approx. \$21.4 million) will pay their share separate from the Settlement)	22,650	20,780	\$458,100,000
Navajo-Gallup Ground Water Component (use tributary and non-tributary ground water)			\$77,600,000
Farmington to Shiprock Pipeline (ALP)	4,680	2,340	\$0
San Juan River Municipal	2000	1000	
Extra diversion for M&I	No # limit	0	
Tributary Ground Water	2000	2000	
<b>TOTAL PROPOSED NAVAJO WATER RIGHT:</b>	<b>606,060</b>	<b>325,370</b>	
Additional Water via Hydrographic Survey for historic and existing stock, irrigation, recreation, and water for domestic use			\$5,000,000
Navajo Nation Water Development Trust Fund			\$50,000,000
<b>TOTAL PROPOSED SETTLEMENT COST (excludes Gallup and Jicarilla share of Navajo-Gallup)</b>			<b>\$986,900,000</b>

# Navajo Nation's New Mexico Water Right in Perspective



Colorado River Basin Map  
Showing Nevada in yellow.

In the San Juan River Basin, the Navajo Nation would have the right to deplete **325,370 acre-feet** from New Mexico's Colorado River Apportionment.

The State of Nevada has the right to deplete **300,000 acre-feet** from the Colorado River.

# Proposed Settlement and Project Timeline

Settlement out for public review/comment	December 5, 2003 †
Navajo Nation Council review/comment/resolution	December 5, 2003 through January 31, 2004 †
Provide written comments to Navajo Department of Water Resource and New Mexico Interstate Stream Commission to ensure consideration prior to Settlement Agreement	Before January 15, 2004 †
Execute Agreement between the Navajo Nation and New Mexico	Summer 2004 [August]
Introduction of Settlement Act to Congress	Summer 2004 [September]
Passage of Settlement Act into Law	October 31, 2006 deadline
U.S. Execution of Settlement Agreement (after Settlement Act)	December 31, 2006 deadline
U.S. Execution of Settlement Contract (after Settlement Act)	December 31, 2006 deadline
Joint Hydrographic Survey (after Settlement Act)	Complete by September 30, 2008
Partial and Final Decree (after Joint Hydrographic Survey)	Entered by Adjudication Court by December 31, 2010

NIIIP funding to complete and rehabilitate Project	Budget ceiling will be raised
Fruitland-Cambridge Irrigation Rehabilitation	Rehabilitation construction must be completed no later than December 31, 2012
Hogback-Cudej Irrigation Project	Rehabilitation construction must be completed no later than December 31, 2015
Navajo-Gallup Water Supply Project	Portion of NSWSP to deliver water to communities in New Mexico must be completed no later than December 31, 2020
Ground water development in San Juan Basin, NM	Construction of well for developing ground water in the San Juan River Basin in NIM must be completed no later than December 31, 2020
Navajo Nation Municipal Pipeline	Completion associated with ALP construction schedule estimated to be December 31, 2010
Navajo Nation Water Resources Development Trust Fund	\$6,000,000 per year in each of the first five fiscal years then \$4,000,000 per year the following five fiscal years December 31, 2016

# Significant Changes

- **Alternative Water Supply (Provides protection For Navajo Reservoir Supply)**
- **Greater flexibility for NIP operations and for transfer of NIP water uses**
- **Authorization of “Top Water” Bank**
- **Protection of Window Rock water supply during shortages• Clarify Navajo Nation right to administer water uses on Navajo Trust Lands**
- **Recognition of Echo Ditch Rights**
- **ALP protections**