

3. PUEBLO WATER RIGHTS.

Subject to, and in accordance with, the Settlement Agreement:

A. The Pueblo of Nambé

1. Water Rights

~~a. Subject to the terms of the Settlement Agreement,~~ The Pueblo of Nambé has the Pueblo First Priority Right to divert and consumptively use the surface and ground water of the Pojoaque Basin in an amount not to exceed 1,459 acre feet per year (AFY) for agricultural, community, domestic, livestock, commercial or industrial purposes on this Pueblo's lands. The priority of this right is time immemorial. Pursuant to the Settlement Agreement, 522 AFY of this right are designated as Existing Basin Use Rights and 937 AFY are designated as Future Basin Use Rights. ~~This Pueblo First Priority Right may be exercised only as provided by the Settlement Agreement.~~

~~2. The points of diversion and purposes and places of use of the Pueblo's Existing Basin Use Rights, and the amounts of each such use, are identified in Appendix 1. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.~~

b3. The Pueblo of Nambé has the Reserved Right under federal law for the Nambé Reservation to divert and consumptively use the surface and ground water of the Pojoaque Basin in an amount not to exceed Three Hundred

Two (302) AFY, which right may be exercised only as set forth in Section 2.6.2 of the Settlement Agreement. The priority of this right is 1902.

 c4. The Pueblo's water rights described in subparagraphs a1 and b3 above shall be exercised in accordance with Section 5.1 of the Settlement Agreement, as follows:

 1a. For agricultural uses, the amount of water shall not exceed 4.65 AFY per acre diverted by the ditch at the point of diversion from the surface source of water, or 3.35 AFY per acre delivered at the farm headgate or well head, or a consumptive use of 1.84 AFY per acre.

 2b. For non-agricultural uses, the diversion amount shall not exceed the consumptive use amount unless a return flow plan is approved consistent with the Settlement Agreement.

 d5. Pursuant to the Stipulation approved by the Court and filed March 6, 1988, and as further described therein, the Pueblo of Nambé has the right to the maintenance of a rate of flow of 0.5 cubic feet per second in the Rio Nambé over Nambé Falls for religious purposes and for maintenance of a fishing habitat at traditional sites at the Falls. The priority of this right is time immemorial.

2. Administration

a. For purposes of administration of the Pueblo of Nambe's Existing Basin Use Rights in accordance with sections 2.3.2, 2.3.3 and 2.3.4 of the

Settlement Agreement, the points of diversion and purposes and places of use and amounts of each such use are set forth in Appendix 1.

b. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.

B. The Pueblo of Pojoaque

1. Water Rights

a. 1. Subject to the terms of the Settlement Agreement,
theThe Pueblo of Pojoaque has the Pueblo First Priority Right to divert and consumptively use the surface and ground water of the Pojoaque Basin in an amount not to exceed 236 acre feet per year (AFY) for agricultural, community, domestic, livestock, commercial or industrial purposes on this Pueblo's lands. The priority of this right is time immemorial. Pursuant to the Settlement Agreement, all 236 AFY of this right are designated as Existing Basin Use Rights and no Future Basin Use Rights are recognized. This Pueblo First Priority Right may be exercised only as provided by the Settlement Agreement.

2. The points of diversion and purposes and places of use of the Pueblo's Existing Basin Use Rights, and the amounts of each such use, are identified in Appendix

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b. 3.The Pueblo of Pojoaque has the Supplemental Pueblo Right to divert and consumptively use the surface and ground waters of the Pojoaque

Basin in an amount not to exceed 475 AFY. The terms of the exercise of this right, and its subordination, are governed by Section 2.2 of the Settlement Agreement.

~~4c.~~ The Pueblo's water rights described in subparagraphs ~~4a~~ and ~~3b~~ above shall be exercised in accordance with Section 5.1 of the Settlement Agreement, as follows:

1a. For agricultural uses, the amount of water shall not exceed 4.65 AFY per acre diverted by the ditch at the point of diversion from the surface source of water, or 3.35 AFY per acre delivered at the farm headgate or well head, or a consumptive use of 1.84 AFY per acre.

2b. For non-agricultural uses, the diversion amount shall not exceed the consumptive use amount unless a return flow plan is approved consistent with the Settlement Agreement.

2. Administration

a. For purposes of administration of the Pueblo of Pojoaque's Existing Basin Use Rights in accordance with sections 2.3.2, 2.3.3 and 2.3.4 of the Settlement Agreement, the points of diversion and purposes and places of use and amounts of each such use are set forth in Appendix 2.

b. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.

C. The Pueblo of Tesuque

1. Water Rights

~~—~~a.1. ~~Subject to the terms of the Settlement Agreement, ¶~~The Pueblo of Tesuque has the Pueblo First Priority Right to divert and consumptively use the surface and ground water of the Pojoaque Basin in an amount not to exceed 719 acre feet per year (AFY) for agricultural, community, domestic, livestock, commercial or industrial purposes on this Pueblo's lands. The priority of this right is time immemorial. Pursuant to the Settlement Agreement, 345 AFY of this right are designated as Existing Basin Use Rights and 374 AFY are designated as Future Basin Use Rights. ~~This Pueblo First Priority Right may be exercised only as provided by the Settlement Agreement.~~

~~2. The points of diversion and purposes and places of use of the Pueblo's Existing Basin Use Rights, and the amounts of each such use, are identified in Appendix 3. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.~~

b.3. The Pueblo's water rights described in subparagraph 4a above shall be exercised in accordance with Section 5.1 of the Settlement Agreement, as follows:

a.1. For agricultural uses, the amount of water shall not exceed 4.65 AFY per acre diverted by the ditch at the point of diversion from the surface source of water, 3.35 AFY per acre delivered at the farm headgate or well head, or a consumptive irrigation requirement of 1.84 AFY per acre.

b2. For non-agricultural uses, the diversion amount shall not exceed the consumptive use amount unless a return flow plan is approved consistent with the Settlement Agreement.

2. Administration

a. For purposes of administration of the Pueblo of Tesuque's Existing Basin Use Rights in accordance with sections 2.3.2, 2.3.3 and 2.3.4 of the Settlement Agreement, the points of diversion and purposes and places of use and amounts of each such use are set forth in Appendix 3.

b. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.

C. ~~D.~~ The Pueblo of San Ildefonso

1. Water Rights

a.1. Subject to the terms of the Settlement Agreement, the Pueblo of San Ildefonso has the Pueblo First Priority Right to divert and consumptively use the surface and ground water of the Pojoaque Basin in an amount not to exceed 1,246 acre feet per year (AFY) for agricultural, community, domestic, livestock, commercial or industrial purposes on this Pueblo's lands. The priority of this right is time immemorial. Pursuant to the Settlement Agreement, 288 AFY of this right are designated as Existing Basin Use Rights and 958 AFY are designated as Future Basin Use Rights. ~~This Pueblo First Priority Right may be exercised only as provided by the Settlement Agreement.~~

~~2. The points of diversion and purposes and places of use of the Pueblo's Existing Basin Use Rights, and the amounts of each such use, are identified in Appendix 4. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.~~

~~b.3. Subject to the terms of the Settlement Agreement, the~~The Pueblo of San Ildefonso has the Reserved Right under federal law for the San Ildefonso Eastern Reservation to divert and consumptively use the waters of the Pojoaque Basin for grazing purposes on the Reservation in an amount not to exceed Four and Eighty-two Hundredths (4.82) AFY. The priority of this right is 1939.

~~c.4. The Pueblo's water rights described in subparagraphs 4a and 3b~~ above shall be exercised in accordance with Sect. 5.1 of the Settlement Agreement, as follows:

~~a.1. For agricultural uses, the amount of water shall not exceed 4.65~~ AFY per acre diverted by the ditch at the point of diversion from the surface source of water, 3.35 AFY per acre delivered at the farm headgate or well head, or a consumptive irrigation requirement of 1.84 AFY per acre.

~~b.2. For non-agricultural uses, the diversion amount shall not~~ exceed the consumptive use amount unless a return flow plan is approved consistent with the Settlement Agreement.

2. Administration

a. For purposes of administration of the Pueblo of San Ildefonso's Existing Basin Use Rights in accordance with sections 2.3.2, 2.3.3 and 2.3.4 of the Settlement Agreement, the points of diversion and purposes and places of use and amounts of each such use are set forth in Appendix 4.

b. The points of diversion and purposes and places of use of the Pueblo's Future Basin Use Rights, and the amounts of each such use, shall be determined in accordance with the Settlement Agreement.

E. Limitations

1. The Pueblos have no right to divert and use the public waters of the Pojoaque Basin except as set forth in this Partial Final Judgment and Decree, the Settlement Agreement, and other orders entered by this Court in this action.

2. Each Pueblo, and its successors, representatives, lessees, and assigns, are permanently enjoined from any diversion, impoundment, or use of the public waters of the Pojoaque Basin except in strict accordance with this Partial Final Judgment and Decree, Settlement Agreement, and other orders that might be entered by this Court in this action.

4. ENFORCEMENT OF PRIORITIES OF THE PUEBLOS' WATER RIGHTS

Enforcement of the priorities of the Pueblos' water rights that are the subject of this Decree against Non-Pueblo water rights shall be in accordance with the Settlement Agreement.

5. ADMINISTRATION OF THE PUEBLOS' WATER RIGHTS

Administration of the Pueblos' water rights that are the subject of this Decree shall be in accordance with the Settlement Agreement.

6. PUEBLO WATER RIGHTS HELD IN TRUST AND NOT SUBJECT TO CERTAIN CONDITIONS

Pursuant to section 613(c) of the Settlement Act, all the water rights of the Pueblos of Nambé, Pojoaque, Tesuque and San Ildefonso described in the above section 3 shall be held in trust by the United States for the respective Pueblos and are not subject to abandonment, forfeiture, or loss for non-use.

Appendix 1

The Pueblo of Nambé

1. The Pueblo of Nambé is currently ~~exercising using or may use 278 AFY~~ exercising using or may use 278 AFY ~~consumptive use a portion~~ of its ~~Existing Basin Use Rights, Pueblo First Priority Right~~ Existing Basin Use Rights, Pueblo First Priority Right from surface water at one or more of the following points of diversion for irrigation of ~~the Pueblo acreage indicated~~ Pueblo lands under the following ditches:

<u>Ditch</u>	<u>Point of Diversion</u>	<u>Pueblo acreage</u>
Ortiz Ditch		
Community Ditch		
Acequia del Llano		
Acequia la Nueva		
Nambé High Line		
La Mocha Feeder		
Oak Ditch		
Old Trujillo Ditch		
Old Felipe Ditch		
Consolidated Ditch		

Comment [GCM1]: State will provide this information.

Comment [GCM2]: Total acreage from the Hydrographic Survey plus acquisitions per ditch will be provided to establish an estimate of the baseline for water use.

2. The Pueblo of Nambé is currently ~~exercising using or may use a portion~~ exercising using or may use a portion 244 ~~AFY consumptive use~~ of its ~~Pueblo First Priority Right~~ Existing Basin Use Rights from groundwater at the following points of diversion, places and purposes of use, ~~and in the annual diversion and depletion quantities (AFY) shown:~~ and in the annual diversion and depletion quantities (AFY) shown:

<u>Well ID</u>	<u>Point of Diversion</u>	<u>Place of Use</u>	<u>Diversion</u>	Depletion	<u>Purpose</u>
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3. The Pueblo of Nambé may change the point of diversion, place of use, or purposes of use of its Existing Basin Use Rights in accordance with sections 2.3.3 and

2.3.4 of the Settlement Agreement provided, however, that the total consumptive use under paragraphs 1 and 2 above shall not exceed 522 AFY.

Appendix 2

The Pueblo of Pojoaque

1. The Pueblo of Pojoaque is currently ~~exercising a portion of~~ using or may use 17 AFY consumptive use of its ~~Pueblo First Priority Existing Basin Use~~ Rights from surface water at one or more of the following points of diversion for irrigation of ~~the Pueblo acreage indicated~~ Pueblo lands under the following ditches:

<u>Ditch</u>	<u>Point of Diversion</u>	<u>Pueblo acreage</u>
Acequia Barranco Alto		
Rincon Ditch		
Rincon Ditch – Lateral #2		

Comment [GM3]: State will provide this information

Comment [GM4]: Total acreage from the Hydrographic Survey plus acquisitions per ditch will be provided to establish an estimate of the baseline for water use.

2. The Pueblo of Pojoaque is currently ~~exercising a portion of~~ using or may use 219 AFY consumptive use of its ~~Pueblo First Priority Existing Basin use~~ Rights from groundwater at the following points of diversion, places and purposes of use, ~~and in the annual diversion and depletion quantities (AFY) shown:~~

<u>Well ID</u>	<u>Point of Diversion</u>	<u>Place of Use</u>	<u>Diversion</u>	<u>Depletion</u>	<u>Purpose</u>
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3. The Pueblo of Pojoaque may change the point of diversion, place of use, or purposes of use of its Existing Basin Use Rights in accordance with sections 2.3.3 and 2.3.4 of the Settlement Agreement provided, however, that the total consumptive use under paragraphs 1 and 2 above shall not exceed 236 AFY.

Appendix 3

The Pueblo of Tesuque

1. The Pueblo of Tesuque is currently ~~exercising a portion of its Pueblo First Priority~~ using or may use 129 AFY consumptive use of its Existing Basin Use Rights from surface water at one or more of the following points of diversion for irrigation of ~~the Pueblo acreage indicated~~ Pueblo lands under the following ditches:

<u>Ditch</u>	<u>Point of Diversion</u>	<u>Pueblo acreage</u>
Feliciano Ditch		
Tesuque Pueblo Ditch No. 1		
Tesuque Pueblo Ditch No. 2		
Tesuque Pueblo Ditch No. 3		
Tesuque Pueblo Ditch No. 4		
Tesuque Pueblo Ditch No. 5		
Tesuque Pueblo Ditch No. 6		
Tesuque Pueblo Ditch No. 7		

Comment [GM5]: State will provide this information.

Comment [GM6]: Total acreage from the Hydrographic Survey plus acquisitions per ditch will be provided to establish an estimate of the baseline for water use.

2. The Pueblo of Tesuque is currently ~~exercising a portion of its Pueblo First Priority~~ using or may use 216 AFY consumptive use of its Existing Basin Use Rights from groundwater at the following points of diversion, places and purposes of use, and in the annual diversion and depletion quantities (AFY) shown:

<u>Well ID</u>	<u>Point of Diversion</u>	<u>Place of Use</u>	<u>Diversion</u>	<u>Depletion</u>	<u>Purpose</u>
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3. The Pueblo of Tesuque may change the point of diversion, place of use, or purposes of use of its Existing Basin Use Rights in accordance with sections 2.3.3 and 2.3.4 of the Settlement Agreement provided, however, that the total consumptive use under paragraphs 1 and 2 above shall not exceed 345 AFY.

Appendix 4

The Pueblo of San Ildefonso

1. The Pueblo of San Ildefonso is currently ~~exercising a portion of its Pueblo First Priority~~ using or may use 129 AFY consumptive use of its Existing Basin Use Rights from surface water at one or more of the following points of diversion for irrigation of ~~the Pueblo acreage indicated~~ Pueblo lands under the following ditches:

<u>Ditch</u>	<u>Point of Diversion</u>	<u>Pueblo acreage</u>
Acequia del Alamo		
Acequia del Medio		
Ortiz branch of Acequia del Medio		
Montoya branch of Acequia del Medio		
Acequia del Ojito		
Acequia del Rio		
Acequia de los Indios		
El Rancho Ditch		
Acequia Otra Vanda		

Comment [GM7]: State will provide this information.

Comment [GM8]: Total acreage from the Hydrographic Survey plus acquisitions per ditch will be provided to establish an estimate of the baseline for water use.

2. The Pueblo of San Ildefonso is currently ~~exercising a portion of its Pueblo First Priority~~ using or may use 159 AFY consumptive use of its Existing Basin Use Rights from groundwater at the following points of diversion, places and purposes of use, ~~and in the annual diversion and depletion quantities (AFY) shown:~~

<u>Well ID</u>	<u>Point of Diversion</u>	<u>Place of Use</u>	<u>Diversion</u>	<u>Depletion</u>	<u>Purpose</u>
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3. The Pueblo of San Ildefonso may change the point of diversion, place of use, or purposes of use of its Existing Basin Use Rights in accordance with sections 2.3.3 and 2.3.4 of the Settlement Agreement provided, however, that the total consumptive use under paragraphs 1 and 2 above shall not exceed 288 AFY.