



NAVAJO NATION WATER RIGHTS COMMISSION

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The Navajo Nation and the State of Utah have reached a tentative settlement and their representatives drafted a proposed settlement agreement. Representatives of the Nation and Utah have agreed to seek support from their respective elected leaders for the proposed settlement. **Legislation No. 0412-15** is pending before the Navajo Nation Council to approve the proposed Navajo Utah Water Rights Settlement Agreement to quantify the Navajo Nation's water rights in the Utah portion of the Navajo Nation.

PROPOSED NAVAJO NATION/STATE OF UTAH WATER RIGHTS SETTLEMENT AGREEMENT available at: <http://www.nnwrc.navajo-nsn.gov>

I. QUANTIFICATION OF NAVAJO NATION WATER RIGHTS IN UTAH

- Right to deplete 81,500 acre-feet/year (AFY) of water from the Upper Basin of the Colorado River, including Lake Powell, the San Juan River and its tributaries and from groundwater.
- Right to divert and store up to 435 cubic feet/second of water from the San Juan River, potentially as much as 314,851 AFY (so long as 81,500 AFY depletion limit not exceeded); right to divert and store additional quantities of water that do not impair existing state-based water rights. The diversion limit does not apply to groundwater or diversions from Lake Powell.
- Most of these water rights will have a priority of 1884. New Navajo uses will be subordinated during times of shortage only to water rights developed prior to the date of the settlement.
- Ability to market water rights to the same extent as other Utah water rights holders.
- The Navajo Nation and the State of Utah will execute waivers guaranteeing that, in the future, the Navajo Nation will not claim additional water rights in Utah and the State will not seek to reduce the water rights of the Navajo Nation.

II. WATER DEVELOPMENT FUND & OM&R FUND

The settlement would include a Water Development Fund for the purpose of funding the construction of various water development projects to meet the water needs of Navajo communities in Utah. The amount of the fund (\$198.3M in \$2014) was determined based on costs of possible projects described in the "Navajo Nation/State of Utah Water Rights Settlement Projects: White Paper" (June 6, 2014), prepared by the Navajo Nation Department of Water Resources. The funds in the settlement would not be tied to any particular project, which gives the Nation the flexibility to meet the water needs of the Utah portion of the Navajo Nation in the most efficient manner and adapt to possible changes in both the needs and technologies to meet them in the future. The settlement also would include an OM&R Trust Fund of \$11.1M to help defray the operation, maintenance and replacement costs of Navajo water development projects in Utah.

It is important to note that while the State of Utah agrees the settlement should include these development funds, and has pledged to contribute \$8M to the settlement, the United States has not yet agreed to the amount of the funding. Ultimately, Congress will decide on the appropriate level of funding.