



TAOS PUEBLO WATER RIGHTS SETTLEMENT

SUMMARY OF SETTLEMENT PROVISIONS

The Settlement Agreement is a lengthy and complex document. The tables that follow provide a summary of some of the most important terms of the Settlement Agreement, broken down into four categories:

1. **Pueblo Water Rights, Contract Rights and Forbearance;**
2. **Non-Pueblo Water Right Acquisitions and Contract Rights;**
3. **Pueblo Water Development Fund; and**
4. **Settlement-related Projects and Funding.**

All water rights amounts in the tables below are stated in terms of depletions (consumptive use) in acre feet per acre (“AFY”).

Table 1, Pueblo Water Rights, Contract Rights and Forbearance, shows the water rights that the Settlement Agreement and Proposed Partial Final Decree would recognize in the Pueblo, in terms of total depletions and their priority dates. These water rights are described in Article 5 of the Settlement Agreement; however, conditions on their exercise are found throughout the Settlement Agreement. An important example of such a condition is “forbearance,” noted in the Comments column of the Table and described in Articles 5 and 8 of the Settlement Agreement.

| <i>Category</i> | <i>Depletion Quantity</i> | <i>Priority</i> | <i>Comments</i> |
|--|----------------------------------|------------------------|--|
| Historically Irrigated Acreage (surface) | 7,883.64 AFY (5712.78 acres) | Aboriginal | Pueblo forbearance: the Pueblo will limit its initial use of this right to approximately 3,205 AFY (2322.45 acres); later use will increase in accordance with Article 5.1.1.4 |
| Stock Ponds (surface) | 114.35 AFY | Varies | Two types of impoundments: (a) ditch-fed with quantified diversions and (b) non-ditch-fed without quantified diversions |
| San Juan-Chama Project (surface) | 2,215.00 AFY | Project date | Pueblo/US San Juan-Chama Project contract for 2,215 AFY |
| Deep Groundwater (ground) | 1,300.00 AFY | Aboriginal | Pueblo will have no obligation to offset associated Rio Grande surface water depletion effects, but it will offset associated tributary effects and primarily rely on the Mitigation Well System for doing so; no permit requirement (Pueblo or otherwise) |
| Municipal, Industrial, and Domestic (ground) | 300.00 AFY | Aboriginal | – |
| Stock Wells (ground) | 14.72 AFY | Varies | – |
| Rio Grande Depletion Credit | 100.00 AFY | n/a | For use in offsetting any Rio Grande mainstem surface water depletion effects associated with the Buffalo |

| Table 1. Pueblo Water Rights, Contract Rights and Forbearance (Article 5) | | | |
|--|---------------------------|-----------------|--------------------------|
| <i>Category</i> | <i>Depletion Quantity</i> | <i>Priority</i> | <i>Comments</i> |
| | | | Pasture Recharge Project |
| Total | 11,927.71 AFY | | |

Table 2, Non-Pueblo Water Right Acquisitions and Contract Rights, shows the water rights that are to be acquired by several of the non-Pueblo parties to the Settlement Agreement. These acquisitions are generally governed by Article 6 of the Settlement Agreement, but other conditions on their use are found elsewhere in the Settlement Agreement, such as Article 7. The “Water Right

Acquisitions” column shows the quantity of water rights to be acquired on the open market, and the “Contract Rights” column refers to the contracts executed with the United States for water supplies from the San Juan-Chama Project.

| Table 2. Non-Pueblo Water Right Acquisitions and Contract Rights (Article 6) | | |
|---|---|---|
| <i>Non-Indian party</i> | <i>Water Right Acquisitions</i> | <i>Contract Rights</i> |
| Acequia Madre del Rio Lucero y Arroyo Seco and the Upper and Lower Manuel Andres Trujillo Ditches | 120.00 AFY As part of resolution of Tenorio Tract dispute. | – |
| El Prado Water and Sanitation District | 100.00 AFY | EPWSD/US San Juan-Chama Project contract for 40 AFY |
| Town of Taos | – | Town/US San Juan-Chama Project contract for 366 AFY |
| 11 of the Taos-area Mutual Domestic Water Consumer Associations | 145.00 AFY | – |
| Totals | 365.00 AFY | 406 AFY |

Table 3, Pueblo Water Development Fund, displays the proposed federal funding and purposes of use of the Pueblo development Fund that the Settlement Agreement provides for in Article 9.

| Table 3. Pueblo Water Development Fund (Article 9) | | |
|--|---|---|
| <i>Program/Project</i> | <i>Purpose</i> | <i>Federal funding authorized by Congress</i> |
| Water-rights acquisition | to fund the Pueblo's acquisition of 4678.66 AFY of water rights so that it may exercise its full HIA water rights of 7883.64 AFY and avoid the disruption that the Pueblo's immediately exercising its full HIA Right would cause to non-Indian irrigation in the Taos Valley | |
| Water-related infrastructure construction and rehabilitation | planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment or delivery infrastructure, on-farm improvements, and wastewater | |

| <i>Program/Project</i> | <i>Purpose</i> | <i>Federal funding authorized by Congress</i> |
|----------------------------------|---|---|
| | infrastructure | |
| Buffalo Pasture Recharge Project | restoring, preserving and protecting the Buffalo Pasture, a critically important sacred wetland, including planning, permitting, designing, engineering, constructing, operating, managing and replacing the Buffalo Pasture Recharge Project | |
| Administration | administering the Pueblo's water rights acquisition program and water management and administration system | |
| Other Council-approved programs | watershed protection and enhancement, support of agriculture, water-related Pueblo community welfare and economic development, and costs related to the negotiation, authorization, and implementation of the Settlement Agreement | |
| Total | | \$88,000,000¹ |

¹ This amount will be adjusted by changes in engineering cost indices, and includes \$15,000,000 in "early money" available to the Pueblo now for some of these purposes such as the Buffalo Pasture Recharge Project, water infrastructure improvements, water rights acquisition, administration, and negotiation and authorization of the Settlement Agreement.

Table 4, Mutual-Benefit Settlement-related Projects and Funding, provides a brief description of the various settlement-related projects and details the proposed Settlement Agreement funding for them, including the federal-state cost-share.

| <i>Project name</i> | <i>Purpose</i> | <i>Cost-share allocation</i> | | <i>Est. total costs</i> |
|------------------------|---|--------------------------------------|--------------------------------------|----------------------------------|
| | | <i>Federal share</i> | <i>State share</i> | |
| Mitigation well system | Construction of five (5) wells that will (a) protect surface flows to offset the future surface water depletion effects on Taos Valley tributary streams that result from groundwater production; (b) limit the need for non-Indian acquisition of surface water rights (<i>i.e.</i> , acequia water rights) for depletion offset purposes while also facilitating the Pueblo's water right reacquisition program; and (c) supplement the production capacity of five (5) MDWCAs | \$5,612,986 75% (construction) | \$1,870,996 25% (construction) | \$7,483,982 (construction) |
| | | 0% (OMR) | 100% (OMR) | \$1,033,997 (OMR) |
| | | | | Subtotal: \$8,517,979 |

Table 4. Mutual-Benefit Settlement-related Projects and Funding (Article 10)

| <i>Project name</i> | <i>Purpose</i> | <i>Cost-share allocation</i> | | <i>Est. total costs</i> |
|---|---|--|--|--|
| | | <i>Federal share</i> | <i>State share</i> | |
| Arroyo Seco Arriba Storage Project Wells (2) | Construction of two (2) wells, or alternatively surface reservoirs, for project that will store water during the non-irrigation season for use during the subsequent irrigation season to facilitate resolution of a longstanding Pueblo-acequia water allocation dispute | \$6,103,470 75% (construction) \$0 0% (OMR) \$0 0% (non-Indian water right acquisitions) | \$2,034,290 25% (construction) \$121,000 100% (OMR) \$2,000,000 100% (non-Indian water right acquisitions) | \$8,137,960 (construction) \$121,000 (OMR) \$2,000,000 (non-Indian water right acquisitions) Subtotal: \$10,258,960 |
| Rio Grande and Midway Wells | Construction of two (2) wells to provide EPWSD with production capacity in a manner that avoids adverse effects on the Buffalo Pasture; and acquisition of water rights | \$11,658,767 75% (construction) \$0 0% (non-Indian water right acquisitions) | \$3,886,255 25% (construction) \$2,000,000 100% (non-Indian water right acquisitions) | \$15,545,022 (construction) \$2,000,000 (non-Indian water right acquisitions) Subtotal: \$17,545,022 |
| Camino del Medio, Kit Carson, Klauer, Nat'l Guard, and Rio Pueblo Wells | Construction of five (5) wells to provide the Town with production capacity in a manner that avoids adverse effects on the Buffalo Pasture | \$12,616,584 75% (construction) | 4,205,528 25% (construction) | \$16,822,112 (construction) Subtotal: \$16,822,112 |
| 11 of the Taos-area MDWCAs | Water right acquisition in settlement of longstanding State-MDWCA disputes | \$0 0% (non-Indian water right acquisitions) | \$2,900,000 100% (non-Indian water right acquisitions) | \$2,900,000 Subtotal: \$2,900,000 |
| Acequia Madre del Prado stream gage | Installation of one (1) stream gage on the Rio Lucero to facilitate implementation and enforcement of Art. 8 | \$8,193 75% (construction) | \$2,731 25% (construction) | \$10,924 (construction) Subtotal.: \$10,924 |
| Totals | | Up to \$36,000,000 (construction, water rights & OM&R) | Up to \$20,054,997 (construction, water rights & OM&R) | Up to \$56,054,997 (construction, water rights & OM&R) |