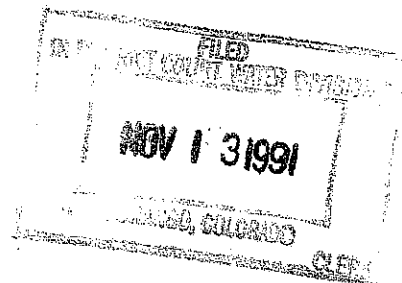


DISTRICT COURT, WATER DIVISION 7, COLORADO

Case No. W-1603-76J



STIPULATION FOR A CONSENT DECREE

IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE UNITED STATES OF AMERICA (BUREAU OF INDIAN AFFAIRS, SOUTHERN UTE AND UTE MOUNTAIN UTE INDIAN TRIBES) FOR CLAIMS TO THE LA PLATA RIVER IN WATER DIVISION NO. 7, COLORADO.

Based on the Colorado Ute Indian Water Rights Final Settlement Agreement of December 10, 1986, and the Colorado Ute Indian Water Rights Settlement Act of 1988, Public Law 100-585 (102 Stat. 2973), the undersigned parties request the Court to approve this Stipulation as proposed which shall become the Final Consent Decree in this case in accordance with the terms of paragraph 16.

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STIPULATIONS

1. FILING

On December 29, 1976, the United States of America (hereafter United States) filed an application for confirmation of the reserved rights held by the United States in trust for the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe and individual Indians owning trust allotments on the Southern Ute Indian Reservation and by the Bureau of Indian Affairs. The application was assigned Case No. W-1603-76. It sought confirmation of reserved water rights on the Navajo, Blanco, San Juan, Piedra, Pine, Florida, Animas, La Plata, Mancos, and Dolores Rivers, and McElmo Creek, as described in the application. At the behest of the Water Clerk of Water Division No. 7 on February 2, 1977, the United States amended its application and filed eleven separate amended applications, each amended application covering water rights associated with the specific river identi-

fied in the amended application. This Stipulation relates to the amended application, Case No. W-1603-76J, which is an amendment to the original Case No. W-1603-76 and concerns claims of the Ute Mountain Ute Indian Tribe, Southern Ute Indian Tribe, individual Indians owning trust allotments on the Southern Ute Indian Reservation and the Bureau of Indian Affairs and claims by the United States on their behalf, to the water of the La Plata River.

2. INTERVENORS

By Order dated April 25, 1985, the Court granted the Motion of the Ute Mountain Ute Indian Tribe to intervene in this case. By Order dated May 22, 1985, the Court granted the Motion of the Southern Ute Indian Tribe to intervene in this case.

3. OBJECTORS

The following objectors filed Statements of Opposition in Case No. W-1603-76 and the amended Case No. W-1603-76J:

Pine River Irrigation District

Vernon Ellis

Fern D. Ellis

Darrel Ellis

Jede Neil Ellis

Ronald C. Ellis

Effie Maurine Smith

Clay V. Bader and Jean Bader

Dolores River Flood Control District

Dolores, Town of

Rico, Town of

Troy J. and Ione F. Rose

Cortez, City of

Val and Olive June Truelsen

Mancos Water Conservancy District
Dolores Water Conservancy District
Dove Creek, Town of
Lloyd and Kathryn Sehnert
Webster Ahrens
John L. Paquin
Mancos Rural Water Company
Lillian Hightchew
Lorna Pacquin Steerman
Mrs. C. David Uhl
Mancos, Town of
Montezuma Valley Irrigation Company
Colorado Ute Electric Association, Inc.
Golf Host West, Inc., succeeded by Tamarron, Inc.
Eaton International Corporation
Summit Reservoir & Irrigation Co., succeeded by
Fairfield Pagosa, Inc.
Louis C. and Virginia M. Duddleston
Carl and Ruby M. Koenig
Robert E. and Thelma F. Bement
John K. Zell
William C. Musson
Louis B. Beardslee, Jr. and Hermona C. Beardslee
Beatrice L. (Mace) Gilmore
Pagosa Water and Sanitation District, now Pagosa Area

Water and Sanitation District
Frank J. and Beverly J. Williams
John B. and Gwenlyn Decker
Montezuma Water Company
Charlie M. Rogers
Navajo Development Company, Inc.
R.B. Coppinger
William Earl Johnson
Bauer Lakes Water Company
John W. Ritter and Maurice T. Ritter
Harold W. Bradford
Ohio Match Company
Ada S. Gibbs Estate
William H. Hendrickson
Ralph Edward Robbins
Percy L. Parker
Colorado River Water Conservation District
Mary Akin
City & County of Denver -- Board of Water Commissioners
Orval Jahnke
Rico Argentine Mining Co.
Everett Ranches, Inc.
Leroy G. and Lucile V. Everett
Russel M. and M. Faye Culp

Louis Eppich
G.E. Humiston
Dean Wolcott
Olen A. Spencer
James O. Spencer
Glen K. Spencer
Eva J. Spencer
Whetsel Allen
Roy and Catherine Lichliter
Frank O. Noland
Dwight L. Wallace
Lyle A. and Erlie G. Cox
James C. and Pansy I. Sheek
Robert F. Jones
Vern J. and Anna Ruth Koppenhafer
Alfred and Irene W. Crow
Carl R. Simpson
Timothy C. and Susan E. Miller
Mancos Valley Chamber of Commerce
Michael R. and Amanda M. Boggs
F.E. Hall
Niels L. Martin
Wilfred W. Michaels
Nolan Eugene and Jacqueline Sue Harper

Marilyn Colyer
A.L. and Lewis B. Wheeler
Robert F. Willburn, Jr.
Jack H. and Mary Ann Ott
Jay Ashcroft
F.E. and Lottie W. Reddert
Percy D. Gray
Lillian C. Gawthrop
Oen D. Noland
Ira A. and Beatrice Cox
Wilda L. Brimhall
Jack L. Julian
Wilodine Levitt
Wilbert L. Porter
Clarence and Rowena Robbins
Homestead Cattle Ranch, Ltd.
Root and Ratliff Ditch Co.
Weber Reservoir Co.
Noland K. and Betty Alexander
Jim Ervien
Herbert L. Hawkins
Andrew O. and Opal Pauline Simmons
Benjamin D. and Elizabeth P. Shaw
J. Perry Lewis

Webber Ditch Company
William R. Mitchell or Sandra G. Mitchell
Rayford D. and Margaret Lawrence
Southwestern Water Conservation District
Florida Water Conservancy District
La Plata Water Conservancy District
Four Corners Christian Service Camp
James-Walters
Animas Consolidated Ditch Company
Ignacio, Town of
San Luis Valley Water Conservancy District
S&I Scott and Company
Durango, City of
Warren-Vosburg Ditch
LaPlata River and Cherry Creek Ditch Company
Reorganized Revival Ditch Company
Joe Freed Ditch and Reservoir Company
State of Colorado

4. RESERVATION BOUNDARIES AND DATES

As to the small portion of the Southern Ute Indian Reservation located outside the boundaries of the Reservation as described in the Ute Reservation Treaty of March 2, 1868, 15 Stat. 619 (see Exhibit 1), and as described in the Act of October 15, 1962, 76 Stat. 954, as amended by the Act of September 6, 1963, 77 Stat. 140, and as more particularly described in U.S. Patent No. 1241410 (see Exhibit 2), the United States of America claims a priority date of October 15, 1962, when such lands were reserved by the United States of America for the use of the Southern Ute Indian Tribe. As to that portion of the Ute Mountain Ute Indian

Reservation located within the Brunot Cession of 1874, 18 Stat. 36, and as described in the Act of June 30, 1913, 38 Stat. 77, 82 (see Exhibit 3) the United States of America claims a priority date of May 10, 1911, when such lands were reserved by the United States of America for the Ute Mountain Ute Indian Tribe, based upon the Agreement of May 10, 1911, and ratified by the Act of June 30, 1913, supra. For all other portions of these Reservations, the United States claims a priority date of time immemorial and the parties agree to the date of the Ute Reservation Treaty of March 2, 1868, supra.

5. SETTLEMENT HISTORY

On December 10, 1986, the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States Department of the Interior, the United States Department of Justice, the Animas-La Plata Water Conservancy District, the Dolores Water Conservancy District, the Florida Water Conservancy District, the Mancos Water Conservancy District, the Southwestern Water Conservation District, the City of Durango, the Town of Pagosa Springs, the Florida Farmers Ditch Company, the Florida Canal Company, and the Fairfield Communities, Inc., entered into the Colorado Ute Indian Water Rights Final Settlement Agreement ("Settlement Agreement"). The Settlement Agreement requires that a stipulation reflecting certain terms of the Settlement Agreement be filed with the Court and that those terms be incorporated into a Final Consent Decree. A copy of the Settlement Agreement is attached for reference (see Exhibit 4). The settlement of each of the river systems filed on by the United States in the original W-1603-76 as amended, is dependent upon the settlement of all other such river systems in a manner in accordance with the terms of the Settlement Agreement and the federal implementing statute discussed infra.

Congress thereafter enacted the "Colorado Ute Indian Water Rights Settlement Act of 1988" ("Settlement Act"), P.L. 100-585, 102 Stat. 2973, which implemented portions of the Settlement Agreement. The United States, the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe and the State of Colorado did not void the Settlement Agreement within 60 days. The other parties agree that the rights secured to them in the Settlement Agreement have not been materially or adversely affected by the modifications contained in the Settlement Act. A copy of the Settlement Act is attached for reference (see Exhibit 5). In the event of any inconsistency between the Settlement Act and the Settlement Agreement, the Settlement Act will control.

6. RESERVED WATER RIGHTS OF THE UTE MOUNTAIN UTE INDIAN TRIBE

The Ute Mountain Ute Indian Tribe shall be entitled to the rights described below to beneficially use water:

A. Animas-La Plata Project

A water right to water supplied from the Animas-La Plata Project. This water right shall have a March 2, 1868 priority date, shall be subordinated to all water rights decreed and senior to the Animas-La Plata Project, and shall share on a pro rata basis the priority of the Animas-La Plata Project, which has an adjudication date of March 21, 1966, and an appropriation date of September 2, 1938, C.A. 1751-B, District Court, La Plata County, Colorado.

i. The water right shall entitle the Tribe to receive and beneficially use, on that part of the Ute Mountain Ute Reservation within the State or within the boundaries of the Animas-La Plata Water Conservancy District, the following allocations of water from the Animas-La Plata Project, as measured at Ridges Basin Dam and Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes:

- a. a maximum of 6,000 acre-feet per annum of municipal and industrial water; and
- b. a maximum of 26,300 acre-feet per annum of agricultural irrigation water.

The water right shall not exceed the total of the above allocations; provided, however, that nothing herein shall limit the Tribe's right to receive an additional 900 acre-feet per annum of agricultural irrigation water in accordance with the Definite Plan Report for the Animas-La Plata Project (defined on pages 4 and 5 of the Settlement Agreement, hereinafter "DPR").

Pending completion of the construction of the Ute Mountain Pumping Plant, the reach of the Dry Side Canal beyond the turn out to the Dry Side Lateral, and the laterals on the Ute Mountain Ute Reservation, the Tribe's allocations of water will be delivered to

the Tribe at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant. When the Tribe takes delivery of its municipal and industrial water allocation at these locations, the timing of the deliveries of its annual municipal and industrial water allocation may be at the Tribe's discretion, so long as neither the project supply nor other project users are adversely affected. The Tribe shall take monthly deliveries of its agricultural irrigation and municipal and industrial water allocations in the manner contemplated by the DPR; provided that the Tribe may take delivery of its agricultural irrigation and municipal and industrial water at its discretion so long as neither the project supply nor other project users are adversely affected.

ii. During periods of water shortage, deliveries of project water, or deliveries of the supply of water available under the project priority, to the Tribe and to all others shall be as follows:

a. the municipal and industrial water allocations as quantified in the DPR shall first be fully satisfied; and

b. the agricultural irrigation water allocations as quantified in the DPR shall share shortages on a pro rata basis even if changed to other beneficial uses. The sharing of shortages in the project's water supply shall govern the actual amount of agricultural irrigation water delivered to the Tribe whether or not the average supply of 25,560 acre-feet per annum as contemplated by the DPR is actually achieved.

iii. In proceedings pursuant to subparagraph 12.D. below, the computations concerning the Tribe's historic beneficial use of water shall be based upon:

a. actual historic monthly deliveries of the available annual supply, measured at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or if there has not yet been full use of water, then the Tribe shall be deemed to have historically made beneficial use

of any unused portion of each year's available water based upon the following monthly percentage distributions of the available water:

<u>Month</u>	<u>Agricultural Irrigation Water</u>	<u>M&I Water</u>
October	2.0 percent	20.0 percent
November	.0	.0
December	.0	.0
January	.0	.0
February	.0	.0
March	.0	.0
April	1.0	20.0
May	11.0	20.0
June	26.0	.0
July	31.0	.0
August	18.0	20.0
September	11.0	20.0
Totals	100.0 percent	100.0 percent

b. actual historic use or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically consumed 100 percent of the unused portion of the water available to the Tribe from its annual municipal and industrial allocation and 80.1 percent of the unused portion of the water available to the Tribe from its annual agricultural irrigation allocation; or

c. any agreement which may be entered into among the State, the Tribes, the Animas-La Plata Water Conservancy District, and the United States Bureau of Reclamation which modifies a. and b. above.

iv. The water right shall always be consistent with:

a. the allocations, shortage provisions, delivery schedules, and consumptive use calculations described in this subparagraph 6.A;

b. Bureau of Reclamation procedures, which shall include, among other things, NEPA compliance and assurance that all other project

water users are not injured by any change in the use of project water;

c. the Animas-La Plata Project Compact, § 37-64-101, C.R.S. (1973); and

d. the La Plata River Compact, § 37-64-101, C.R.S. (1973).

v. The final settlement of the Tribe's reserved water rights claims on the Animas and La Plata Rivers as described in this Stipulation or Final Consent Decree shall be subject to the following conditions:

a. If Ridges Basin Reservoir, Long Hollow Tunnel, and the Dry Side Canal to the turnout to the Dry Side Lateral are completed so as to enable the delivery of water to the Tribe as described in this subparagraph 6.A. on or before January 1, 2000, then: (1) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Stipulation or Final Consent Decree shall become final; (2) the Tribe shall be entitled to the full water right as described in this paragraph 6; and (3) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River.

b. If Ridges Basin Reservoir, Long Hollow Tunnel, and the Dry Side Canal to the turnout to the Dry Side Lateral are not completed so as to enable the delivery of water to the Tribe as described in this subparagraph 6.A. by January 1, 2000, then by January 1, 2005, the Tribe, in consultation with the United States as trustee, must elect either: (1) to retain the water right; or (2) to commence litigation or renegotiation of its pending reserved water rights claims on the Animas and La Plata Rivers. If the Tribe, in consultation with the United States as trustee, has not elected to commence litigation or renegotiation of its pending claims on the Animas and La Plata Rivers by notification to the parties by January 1, 2005, as provided below, then: (1) the Tribe shall be deemed to have elected to retain its water

right; (2) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Stipulation or Final Consent Decree shall become final; and (3) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River. If the Tribe elects to commence litigation or renegotiation of its pending reserved water rights claims on the Animas and La Plata Rivers then the Tribe shall relinquish and forfeit the water right from the Animas-La Plata Project as described in this subparagraph 6.A; provided, however, that if Ridges Basin Reservoir, Long Hollow Tunnel, and the Dry Side Canal to the turnout to the Dry Side Lateral are at any time thereafter completed so as to enable the delivery of water to the Tribe or if the Tribe elects at any time thereafter to receive an allocation of water from Ridges Basin Reservoir, then: (1) the Tribe shall be entitled to the full water right as described in this paragraph 6; (2) the Tribe shall not be entitled to claim any other reserved water rights either on the Animas River or on the La Plata River; and (3) the Tribe shall relinquish any then pending reserved water rights claims or any benefits it may have obtained by litigating or renegotiating its reserved water rights claims on the Animas and La Plata Rivers, including all reserved water rights which may have been decreed. Notice of the Tribe's election shall be made as follows: to the United States, through the Secretary of the Interior and the Attorney General; to the Tribes, through the respective Tribal Chairman; to the State, through the Attorney General; and to all other parties, through their respective offices.

vi. Under no circumstances shall anything in this Stipulation or Final Consent Decree be construed as an admission, or be used by any party as evidence, that the Tribe is or is not legally entitled to reserved water rights on the Animas or La Plata Rivers. This water right shall have no precedential or presumptive value in the event the terms of this Stipulation or Final Consent Decree do not become

final.

vii. If the Tribe does not take delivery of its Animas-La Plata project allocations from the Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal, even though those facilities have been constructed with the capacities contemplated by the DPR, then the Tribe shall:

a. continue to remain responsible for such portion of the OM&R costs of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal so as to ensure that all other project users bear no greater OM&R costs than would otherwise have been the case; and,

b. ensure that deliveries to, and carriage losses of, all other project users are not adversely affected.

If water users other than the Ute Mountain Ute Tribe do not take delivery of their project water through the Long Hollow Tunnel and the Dry Side Canal then there will not be an increase in the OM&R costs or a reduction in deliveries to the Tribe.

B. Existing Uses

As depicted in the maps attached and incorporated herein by reference as Exhibit 6, Ute Mountain Ute Indian Reservation Existing Water Use Inventory Maps 18 and 19 of 19, existing uses of reserved water rights with a March 2, 1868 priority date, which rights are described on the Ute Mountain Ute Indian Tribe Existing Use Inventory Sheet, page 1 of 1, attached and incorporated herein by reference as Exhibit 7.

C. Future Domestic and Livestock Tributary Groundwater Uses

A reserved water right with a March 2, 1868 priority date for the beneficial use of tributary groundwater in the total amount of 1850 acre-feet per annum, of which 350 acre-feet per annum may be taken from the McElmo Creek drainage basin and a cumulative amount of 1500 acre-feet per annum may be taken from all other drainage basins within the Ute Mountain Ute Indian Reservation, for future individual domestic and livestock wells on the Ute Mountain Ute Indian Reservation.

D. Oil and Gas

A reserved water right with a March 2, 1868 priority date for the beneficial use of a cumulative total of 2 acre-feet of water per year from all drainages within the Reservation for use in drilling, fracturing, pond and road construction, dust abatement and cleaning equipment in connection with Reservation oil and gas development, with no more than 6,000 barrels of water for use at any one site.

E. Road Construction and Maintenance

A reserved water right with a March 2, 1868 priority date for the beneficial use of a cumulative total of 1 acre-foot of water per year from all drainages within the Reservation in connection with road construction and maintenance.

7. RESERVED WATER RIGHTS OF THE SOUTHERN UTE INDIAN TRIBE

The Southern Ute Indian Tribe shall be entitled to the rights described below to beneficially use water:

A. Animas-La Plata Project

A water right to water supplied from the Animas-La Plata Project. This water right shall have a March 2, 1868, priority date, shall be subordinated to all water rights decreed and senior to the Animas-La Plata Project, and shall share on a pro rata basis the priority of the Animas-La Plata Project, which has an adjudication date of March 21, 1966, and an appropriation date of September 2, 1938, C.A. 1751-B, District Court, La Plata County, Colorado.

i. The water right shall entitle the Tribe to receive and beneficially use, on that part of the Southern Ute Reservation within the State or within the boundaries of the Animas-La Plata Water Conservancy District, the following allocations of water from the Animas-La Plata Project, as measured at Ridges Basin Dam and Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes:

a. a maximum of 26,500 acre-feet per annum of municipal and industrial water; and

- b. a maximum of 3,400 acre-feet per annum of agricultural irrigation water.

The water right shall not exceed the total of the above allocations.

Pending completion of the Southern Ute Reservoir, the Tribe's municipal and industrial water allocation will be delivered to the Tribe at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes. The Tribe shall take monthly deliveries of its agricultural irrigation water allocation in the manner contemplated by the DPR; provided that the Tribe may take its agricultural irrigation water at its discretion so long as neither the project supply nor other project users are adversely affected.

- ii. During periods of water shortage, deliveries of project water, or deliveries of the supply of water available under the project priority, to the Tribe and to all others shall be as follows:

- a. the municipal and industrial water allocations as quantified in the DPR shall first be fully satisfied; and

- b. the agricultural irrigation water allocations as quantified in the DPR shall share shortages on a pro rata basis even if changed to other beneficial uses. The sharing of shortages in the project's water supply shall govern the actual amount of agricultural irrigation water delivered to the Tribe whether or not the average supply of 3,300 acre-feet per annum as contemplated by the DPR is actually achieved.

- iii. In proceedings pursuant to subparagraph 12.D. below, the computations concerning the Tribe's historic beneficial use of water shall be based upon:

- a. actual historic monthly deliveries of the available annual supply, measured at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango

Pumping Plant, or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically made beneficial use of any unused portion of each year's available water based upon the following monthly percentage distributions of the available water:

<u>Month</u>	<u>Agricultural Irrigation Water</u>	<u>M&I Water</u>
October	0 percent	8 percent
November	0	8
December	0	8
January	0	8
February	0	8
March	0	8
April	0	8
May	9	8
June	29	9
July	32	9
August	18	9
September	12	9
Totals	100 percent	100 percent

b. actual historic use or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically consumed 90.5 percent of the unused portion of the water available to the Tribe from its annual municipal and industrial water allocation and 78.8 percent of the unused portion of the water available to the Tribe from its annual agricultural irrigation water allocations; or

c. any agreement which may be entered into among the State, the Tribes, the Animas-La Plata Water Conservancy District and the United States Bureau of Reclamation which modifies a. and b. above.

iv. The water right shall always be consistent with:

a. the allocations, shortage provisions, delivery schedules, and consumptive use calculations described in this subparagraph 7.A;

b. Bureau of Reclamation procedures, which shall include, among other things, NEPA compliance and assurance that all other project water users are not injured by any change in the use of project water;

c. The Animas-La Plata Project Compact, § 37-64-101, C.R.S. (1973); and

d. The La Plata River Compact, § 37-64-101, C.R.S. (1973).

v. The final settlement of the Tribe's reserved water rights claims on the Animas and La Plata Rivers as described in this Stipulation or Final Consent Decree shall be subject to the following conditions:

a. If Ridges Basin Reservoir and the facilities necessary for the delivery of the Tribe's agricultural irrigation water are completed so as to enable the delivery of water to the Tribe as described in this subparagraph 7.A. on or before January 1, 2000, then: (1) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Stipulation or Final Consent Decree shall become final; (2) the Tribe shall be entitled to the full water right as described in this paragraph 7; and (3) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River.

b. If Ridges Basin Reservoir and the facilities necessary for the delivery of the Tribe's agricultural irrigation water are not completed so as to enable the delivery of water to the Tribe as described in this subparagraph 7.A. by January 1, 2000, then by January 1, 2005, the Tribe, in consultation with the United States as trustee, must elect either: (1) to retain the water right; or (2) to commence litigation or renegotiation of its reserved water rights claims on the Animas and La Plata Rivers. If the Tribe, in consultation with the United States as trustee, has not elected to commence litigation or renegotiation of its pending claims on the Animas and La Plata Rivers by

notification to the parties by January 1, 2005, as provided below, then: (1) the Tribe shall be deemed to have elected to retain its water right; (2) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Stipulation or Final Consent Decree shall become final; and (3) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River. If the Tribe elects to commence litigation or renegotiation of its pending reserved water rights claims on the Animas and La Plata Rivers, then the Tribe shall relinquish and forfeit the water right from the Animas-La Plata Project as described in this subparagraph 7.A; provided, however, that if Ridges Basin Reservoir and the facilities necessary for the delivery of the Tribe's irrigation water are at any time thereafter completed so as to enable the delivery of water to the Tribe or if the Tribe elects at any time thereafter to receive an allocation of water from Ridges Basin Reservoir, then: (1) the Tribe shall be entitled to the full water right as described in this paragraph 7; (2) the Tribe shall not be entitled to claim any other reserved water rights either on the Animas River or on the La Plata River; and (3) the Tribe shall relinquish any then pending reserved water rights claims or any benefits it may have obtained by litigating or renegotiating its reserved water rights claims on the Animas or La Plata Rivers, including all reserved water rights which may have been decreed. Notice of the Tribe's election shall be made as follows: to the United States, through the Secretary of the Interior and the Attorney General; to the Tribes, through the respective Tribal Chairman; to the State, through the Attorney General; and to all other parties, through their respective offices.

vi. Under no circumstances shall anything in this Stipulation or Final Consent Decree be construed as an admission, or be used by any party as evidence, that the Tribe is or is not legally entitled to reserved water rights on the Animas or La Plata

Rivers. This water right shall have no precedential or presumptive value in the event the terms of this Stipulation or Final Consent Decree do not become final.

vii. If the Tribe does not take delivery of its Animas-La Plata project allocations from the Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal, even though those facilities have been constructed with the capacities contemplated by the DPR, then the Tribe shall:

a. continue to remain responsible for such portion of the OM&R costs of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal so as to ensure that all other project users bear no greater OM&R costs than would otherwise have been the case; and,

b. ensure that deliveries to, and carriage losses of, all other project users are not adversely affected.

If water users other than the Southern Ute Indian Tribe do not take delivery of their project water through the Long Hollow Tunnel and the Dry Side Canal then there will not be an increase in the OM&R costs or a reduction in deliveries to the Tribe.

B. Existing Uses

As depicted in the maps attached and incorporated herein by reference as Exhibit 8, Southern Ute Indian Reservation Existing Water Use Inventory Maps, 1, 2, 3, 4, 5, 6, 7 and 8 of 23, existing uses of reserved water rights with a March 2, 1868 priority date, which rights are described on the Southern Ute Indian Tribe Existing Use Inventory Sheet, pages 1, 2, 3, and 4 of 4, attached and incorporated herein by reference as Exhibit 9.

C. Future Domestic and Livestock Tributary Groundwater Uses

A reserved water right with a March 2, 1868 priority date for the beneficial use of tributary groundwater for future individual domestic and livestock wells on the Southern Ute Indian Reservation in the Reservation cumulative amount of 2,000 acre-feet per annum.

D. Oil and Gas

A reserved water right with a March 2, 1868 priority date for the beneficial use of a cumulative total of 117.5 acre-feet of water per year from all drainages within the Reservation for use in drilling, fracturing, pond and road construction, dust abatement and cleaning equipment in connection with Reservation oil and gas development, with no more than 6,000 barrels of water for use at any one site. The location and time of diversion of water is to be coordinated with the Division Engineer and subject to Division Engineer approval. The Division Engineer shall provide a reasonable alternative if the proposed point of diversion is unacceptable to the Division Engineer.

E. Road Construction and Maintenance

A reserved water right with a March 2, 1868 priority date for the beneficial use of a cumulative total of 12.05 acre-feet of water per year from all drainages within the Reservation in connection with road construction and maintenance. The location and time of diversion of water is to be coordinated with the Division Engineer and subject to Division Engineer approval. The Division Engineer shall provide a reasonable alternative if the proposed point of diversion is unacceptable to the Division Engineer.

8. DEFINITIONS

For the purposes of this Stipulation the following definitions apply:

A. Net Acres

The term "net acres" shall mean the acres, exclusive of lands necessary for roads, buildings, or farm practices, which the Tribes have a right to irrigate.

B. Per Annum

The term "per annum" shall mean per water year, with a water year commencing on October 1 each year and running through the next succeeding September 30.

C. Tribal Lands

The term "Tribal lands" shall mean lands owned by the Tribes or Tribal members or lands held in trust or other

restricted status by the United States for the benefit of the Tribes or individual Indians.

9. EXISTING STATE DECREES

The parties further agree that whenever a reserved water right is recognized herein for use on a parcel of Tribal land that is already irrigated under an existing State decreed right owned by the Tribe, individual Tribal members, or by the United States for the benefit of the Tribes or individual Tribal members, the State decreed right shall be deemed relinquished unless otherwise expressly agreed.

10. INDIVIDUAL ENTITLEMENTS

Any entitlement to reserved water of any individual member of either Tribe shall be satisfied from the reserved water rights secured to that member's Tribe.

11. DISPUTES

All disputes over whether water is being beneficially used in accordance with paragraphs 6 and 7 shall be presented to the Colorado District Court for Water Division No. 7.

12. ADMINISTRATION

In the Settlement Agreement, the parties reached a compromise on the administration of the Tribes' reserved water rights within the exterior boundaries of the Tribes' Reservations. The State, the Tribes, and the United States further acknowledge the hydrologic relationship between surface and underground use of water and among the Tribes' reserved water rights, the water rights used by non-Indians within Colorado, and the waters used outside the State. The parties recognize the need for a cooperative and coordinated administration of water rights arising under State law and the reserved water rights secured to the Tribes and intend to provide for such administration. The purpose of this paragraph 12 is to establish the means by which the water rights confirmed in paragraphs 6 and 7 shall be administered. Administration by the State Engineer as described below shall ensure that the water rights of all users, including the Tribes, are fully protected. The Tribes agree to coordinate their administrative responsibilities under this paragraph 12 with the Secretary of the Interior when those administrative responsibilities affect the water rights of allottees. The Tribes agree to allow the State Engineer access to Reservation lands solely for the purpose of performing his administrative duties.

A. Surface Diversions

The State Engineer shall have primary administrative responsibility over all waters apportioned to the Tribes at the points of diversion located on the La Plata River. The Tribes shall have primary administrative responsibility over all the waters within the Tribes' canal distribution systems.

When water is put to use the Tribes agree to install and maintain headgates on the diversion points from the La Plata River and to install and maintain necessary totalizing or accumulating meters, gauges or other measuring devices on these headgates, to inspect the recorders on a weekly basis, and to report to the State Engineer the reading of these meters as often as needed to ensure compliance with this Final Consent Decree.

The Tribes agree to allow reasonable inspection of headgates by the State Engineer upon request. The Tribes further agree to keep their diversion, transportation, and storage facilities in good repair. The Tribes agree to annually provide the State Engineer with: (1) Aerial photos or remote sensing images of the lands irrigated or (2) Bureau of Indian Affairs Crop Reports, showing the lands irrigated. If these aerial photos, remote sensing images, or crop reports are unsatisfactory, the Tribes agree to allow the State Engineer access to Tribal lands to inventory the number and location of irrigated acres. The Tribes may elect to allow the State Engineer to conduct an annual examination of the irrigated lands so that the State Engineer can inventory the number and location of irrigated acres in substitution for the images and reports. At least once in every five-year period the Tribes shall provide the State Engineer with aerial photos or remote sensing images satisfactory to the State Engineer, or shall allow the State Engineer access to Tribal lands to inventory the location and number of irrigated acres.

The Tribes agree that when there is an administrative call on the waters of the La Plata River and a demonstrated likelihood of shortage exists, the Tribes will permit the State Engineer to monitor the Tribes' diversions of water within the priority system to ensure that the waters are being beneficially used in compliance with the terms of the Final Consent Decree.

The parties shall present to the Colorado District Court

for Water Division No. 7 all disputes over whether waters are being used in accordance with the terms of paragraph 12, provided that disputes involving solely Tribal members or lessees of the Tribes over the use of water within the Tribes' canal distribution system may be resolved in a Tribal forum.

B. Individual Wells

The Tribes agree to provide the State Engineer with the following information in a Tribal permit 30 days before the Tribes intend to permit the drilling of a well for individual domestic or livestock purposes as set forth in subparagraphs 6.C and 7.C: the aquifer or, if the aquifer is unknown, the depth from which the water is proposed to be withdrawn, the location of the proposed well, the name of the owner of the land on which the well will be located, the estimated average annual amount of water applied for in acre-feet, and the estimated maximum pumping rate in gallons per minute. Thirty (30) days after the receipt of a Tribal permit to drill a well, the State shall issue well permits for individual domestic and livestock wells within the parameters and up to the amounts specified in Article III, Section C, Subsection 2 of the Settlement Agreement and in subparagraphs 6.C and 7.C of this Stipulation or Final Consent Decree. The parties shall present to the Colorado District Court for Water Division No. 7 all disputes arising under this subparagraph 12.B.

C. Aquifer Protection and Water Well and Pump Installation

The Tribes agree to drill, maintain, and/or abandon wells in a manner consistent with public health and safety and applicable laws or regulations. Well completion reports and well drilling logs shall be completed and filed with the State Engineer within 30 days of completion of the well. Disputes arising under this subparagraph 12.C shall be decided by a court of competent jurisdiction.

D. Change of Water Rights

The Tribes may change the water rights described in paragraphs 6 and 7 from the types of use, places of use, amounts, times of use or location of points of diversion set forth in paragraphs 6 and 7. No change shall be allowed unless the Tribes and the United States file, to the same extent other project water users are required to file, an application for a change of water rights in the

Colorado District Court for Water Division No. 7 and the Court grants such change. If the change is to an off-reservation use, the Tribe must affirmatively state that it is voluntarily electing to change the use to an off-reservation place of use and understands that as a condition precedent, that portion of its water right shall be changed to a Colorado State water right, but be such a State water right only during the use of that right off the Reservation. Changes of water rights may be to any beneficial use.

A change of water right shall be granted by the District Court if the change does not increase the consumptive use of the Tribal water right or injure other water rights. In determining the consumptive use of Tribal water rights and injury to other water rights for the change of a Tribal water right within the boundaries of a Reservation or from within the boundaries of a Reservation to outside the boundaries of that Reservation, the Tribal water right shall be deemed to have been historically diverted and beneficially used in the full amounts, in the manner and for the purposes set forth in paragraphs 6 and 7 above.

The Tribes and the United States further agree that for a change of a surface diversion of agricultural irrigation water to a groundwater diversion, the Tribes will provide the State Engineer with a Tribal permit containing the following information before the Tribes and the United States file an application for a change of water right in Colorado District Court for Water Division No. 7: the aquifer or, if the aquifer is unknown, the depth from which the water is proposed to be withdrawn, the location of the proposed well, the name of the owner of the land on which the well will be located, the estimated average annual amount of water applied for in acre-feet, the estimated maximum pumping rate in gallons per minute, the proposed use, and a description of the land proposed to be irrigated or the use to which the water will be put and the location of that use. Within thirty (30) days after receipt of a Tribal permit to drill a well, the State Engineer shall issue a well permit for the proposed well if the change does not increase the consumptive use of the Tribal water right or injure other water users. In determining the consumptive use of water and injury to other water users, the Tribal water right shall be deemed to have been diverted and beneficially used in the full amounts, and manner, and for the purposes contemplated in paragraphs 6 and 7 above.

The parties shall present to the Colorado District Court for Water Division No. 7 all disputes arising under this subparagraph 12.D.

E. State Appropriative Rights

The parties acknowledge that the administrative provisions of this paragraph 12 govern the Tribes' use of the reserved water rights confirmed in paragraphs 6 and 7 herein. The parties further agree that any and all other waters appropriated by the Tribes or on their behalf or on behalf of individual members of the Tribes pursuant to the State adjudication or permitting process will be decreed, administered, and regulated by the State pursuant to State law. The State shall also administer all rights to the use of surface or groundwater within or outside the Reservations which are not a part of the Tribes' reserved water rights. Further, the District Court for Water Division No. 7 shall have exclusive jurisdiction to resolve all disputes over uses of nonreserved water rights established under State law. The Tribes or their members, or the United States, on its own behalf, or on behalf of the Tribes or Tribal members, shall be entitled to seek additional water rights by appropriation in accordance with and pursuant to State law and to acquire existing State law water rights by purchase, relinquishment, or other operation of law.

13. PERMANENCY OF RESERVED WATER RIGHTS

When the water rights confirmed in paragraphs 6 and 7 are used off reservation, they will be State water rights only during that use and will regain the status of Indian reserved water rights for the use of the Tribes when the off-reservation use is concluded, thus ensuring that the rights are permanent and cannot be lost as a result of change of use, forfeiture, abandonment, or nonuse.

14. WAIVERS

A. Waivers Upon Entry of Final Consent Decrees

Upon the entry of Final Consent Decrees in Case Nos. W-1603-76 and W-1603-76A through W-1603-76J, as provided in Article VI of the Settlement Agreement, reflecting the terms of the Stipulations entered in Case Nos. W-1603-76 and W-1603-76A through W-1603-76J, the Tribes and the United States as Trustee for the Tribes shall waive any and all claims to water rights within the State of Colorado not

expressly identified in the Final Consent Decrees, established by existing State or Federal court decree, or otherwise recognized under State law, including all claims to water rights or injury to water rights for the benefit of the Tribes or any individual claiming the right to use water under the Tribes, from any source of surface water or waters tributary thereto, arising under any laws of the United States or of the State of Colorado.

B. Waivers Required for Performance by Secretary

Performance by the Secretary of the Interior of the actions required by the Settlement Act is conditioned on the Tribes executing waivers and releases of all claims concerning water rights whether in rem or against any party to the Settlement Agreement other than those which may arise under the terms of the Settlement Agreement;

provided, that the waivers of such claims, if any, relative to the Animas and La Plata Rivers shall not be effective until Phase I of the Animas-La Plata Project as defined in the June 30, 1986, Binding Agreement for Animas-La Plata Project Cost-Sharing, is complete or the Tribes elect to retain their reserved water rights as described on page 64 of the Settlement Agreement, except that waivers of such claims, if any, for monetary damages against the State shall be effective as soon as the State appropriates and disburses the funds described in Article VI, Section A, subsection 2 of the Settlement Agreement;

provided further, that the waivers of such claims relative to the Mancos River shall not be effective until the combined Highline-Towaoc Canal is completed so as to enable the delivery of water to the Ute Mountain Ute Indian Reservation, or the Ute Mountain Ute Indian Tribe elects to exercise its reserved water right by taking the Tribe's allocation of water directly from McPhee Reservoir; except that waivers of such claims, if any, for monetary damages against the State shall be effective as soon as the State appropriates the funds described in Article VI, Section A, subsection 2 of the Settlement Agreement;

provided further, that in the event that either Tribe obtains a judgment for monetary damages against the United States, the State or any other parties, the United States or the State or the affected party shall be entitled to apply as an offset against the judgment, the money actually provided by that party to the Tribe as Tribal Development Funds, and any interest or any other money generated by these funds under the Settlement Agreement and its implementing legislation;

provided further, that nothing in this paragraph shall be deemed to create or give validity to any claim by the Tribes against the United States, the State, or any other parties to this settlement, or in any way constitute an acknowledgment of the validity of any claims by the Tribes against the United States, the State, or any other party to the settlement;

provided further, that neither Tribe may assert any claim against the United States, the State, or any other party, arising out of:

(i) The negotiation of the Settlement Agreement and the Stipulations in Case Nos. W-1603-76 and W-1603-76A through W-1603-76J;

(ii) The adoption of the specific terms of the Settlement Agreement and the Stipulations in Case Nos. W-1603-76 and W-1603-76A through W-1603-76J; or

(iii) Allegations concerning the lack of authority of either Tribe or the other parties to enter into the Settlement Agreement and the Stipulations in Case Nos. W-1603-76 and W-1603-76A through W-1603-76J.

Nothing in this proviso shall be deemed to preclude the judicial enforcement of the terms of the Stipulations and Final Consent Decrees or to waive the liability of any party for its failure to satisfy its obligations under the Stipulations and Final Consent Decrees.

15. FINAL CONSENT DECREES NOT PRECEDENT

The Final Consent Decrees shall be entered pursuant to the Settlement Agreement and Settlement Act; the matters set forth herein have not been litigated among the parties and therefore, the parties shall not be collaterally estopped or barred in any other way by these proceedings or the Final Consent Decrees from asserting any factual or legal issues in any other action not involving these water rights. The Final Consent Decrees shall not be used, considered, or cited as precedent in any other case except and only to the extent that, the rights decreed herein are involved.

16. CONTINGENCIES

Execution and entry of the Final Consent Decree reflecting the terms of this Stipulation is contingent upon certification by the State of Colorado, the Tribes, and the United States that the matters set forth below have been accomplished or accepted by the

State of Colorado, the Tribes and the United States.

A. Federal-Tribal Development Fund Appropriations

Appropriation of the Federal share of the \$60.5 million Tribal Development Funds as provided for in Article VI, Section B, of the Settlement Agreement.

B. State-Tribal Development Fund Appropriations

Authorization and appropriation of \$5 million to be deposited by the State of Colorado to the Tribal Development Funds no later than 30 days following the deposit of the first installment of Federal monies to said Development Funds.

C. State-Towaoc Pipeline Appropriations

Authorization of such amount as needed, estimated at \$6 million, to be expended by the State of Colorado for construction of the Towaoc Pipeline, and a domestic water distribution system for the Ute Mountain Ute Indian Tribe as a credit to the Ute Mountain Ute Tribal Development Fund, with said construction to be initiated within 1 year of the execution of the Settlement Agreement, and completed within 1 year of the initiation of construction.

D. State-Ridges Basin Appropriations

Authorization and appropriation of \$5.6 million to be provided by the State of Colorado to the Secretary of the Interior for Ridges Basin Dam on a schedule acceptable to the State of Colorado and the Secretary of the Interior beginning in the first year of construction of said dam, provided that the State of Colorado's obligation to provide \$5.6 million to the Secretary of the Interior for Ridges Basin Dam shall be contingent upon appropriations by the Colorado General Assembly and shall be fulfilled by the State of Colorado no later than the date that the last Federal appropriation to the Tribal Development Funds is made or the date the money is otherwise required to be appropriated pursuant to the language of the Settlement Agreement, whichever is first.

17. SURVIVAL OF EXCLUDED SECTIONS

As provided in Article VI, Section A of the Settlement Agreement, the following sections of the Settlement Agreement are excluded

from this Stipulation and shall be excluded from the Final Consent Decree: Article IV Section C; Article VI Section A.1 except for subsection A.1.e; Article VI Sections A.2 and B; and Article VII Section G. Such exclusion shall not delete or alter the terms or the effect of these excluded sections.

18. APPROPRIATIONS

Nothing in this Stipulation or Final Consent Decree shall commit or obligate the United States to expend funds which have not been appropriated and budgeted. Nothing in this Stipulation or Final Consent Decree shall commit or obligate the State of Colorado to expend funds which have not been appropriated and budgeted.

Signed this _____ day of **NOV 12 1991** 1991.

GALE A. NORTON
Attorney General

RAYMOND T. SLAUGHTER
Chief Deputy Attorney General

TIMOTHY M. TYMKOVICH
Solicitor General

W.C.W.

WENDY C. WEISS, 7254*
First Assistant Attorney General
Natural Resources Section

Attorneys for State of Colorado

110 Sixteenth Street, 10th Floor
Denver, Colorado 80202
Telephone: (303) 620-4700
*Counsel of Record
AG Alpha No. LW FR HRFI
AG File No. E9113123.107

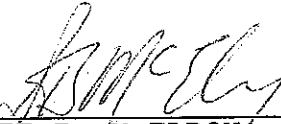
FOR UTE MOUNTAIN UTE INDIAN TRIBE

Daniel H. Israel

DANIEL H. ISRAEL, 3878
Daniel H. Israel, P.C.

1715 Pearl, Suite C
Boulder, Colorado 80302
Telephone: (303) 939-8180

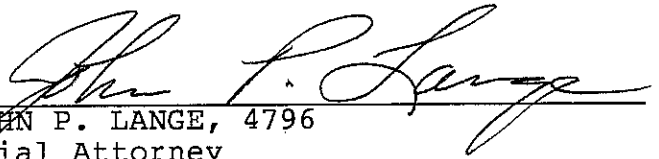
FOR SOUTHERN UTE INDIAN TRIBE



SCOTT B. McELROY, 13964
Greene, Meyer & McElroy, P.C.

1007 Pearl Street, Suite 240
Boulder, Colorado 80302
Telephone: (303) 442-2021

FOR THE UNITED STATES OF AMERICA



JOHN P. LANGE, 4796
Trial Attorney
Department of Justice-
Environment and Natural Resources
Division
999 18th Street, Suite 945
Denver, Colorado 80202
Telephone: (303) 294-1900

W-1603-76J

EXHIBIT LIST

LA PLATA RIVER

<u>EXHIBIT NO.</u>	<u>DOCUMENT TITLE</u>
1.	Ute Reservation Treaty of March 2, 1868, 15. Stat. 619
2.	Act of October 15, 1962, 76 Stat. 954 Act of September 6, 1963, 77 Stat. 140 U.S. Patent No. 1241410
3.	Act of June 30, 1913, 38 Stat. 77
4.	Colorado Ute Indian Water Rights Final Settlement Agreement ("Settlement Agreement")
5.	Colorado Ute Indian Water Rights Settlement Act of 1988 (Settlement Act")
6.	Ute Mountain Ute Indian Reservation Existing Water Use Inventory Maps 18 and 19 of 19
7.	Ute Mountain Ute Indian Tribe Existing Use Inventory Sheet, page 1 of 1
8.	Southern Ute Indian Reservation Existing Water Use Inventory Maps, 1, 2, 3, 4, 5, 6, 7 and 8 of 23
9.	Southern Ute Indian Tribe Existing Use Inventory Sheet, Pages 1, 2, 3, and 4 of 4

Treaty between the United States of America and the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah Bands of Ute Indians; Concluded March 2, 1868; Ratification advised, with Amendment, July 25, 1868; Amendment accepted August 15, September 1, 14, 24, and 25, 1868; Proclaimed November 6, 1868.

ANDREW JOHNSON,

PRESIDENT OF THE UNITED STATES OF AMERICA,

March 2, 1868.

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS a treaty was made and concluded at the city of Washington, in the District of Columbia, on the second day of March, in the year of our Lord one thousand eight hundred and sixty-eight, by and between Nathaniel G. Taylor, Alexander C. Hunt, and Kit Carson, commissioners, on the part of the United States, and U-ré, Ka-ni-ache, An-ka-tosh, José-Maria, Ni-ca-a-gat, Guero, Pa-ant, Pi-ah, Su-vi-ap, and Pa-bu-sat, representatives of the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah bands of Ute Indians, on the part of said Indians, and duly authorized thereto by them, which treaty is in the words and figures following, to wit:—

Preamble.

Contracting parties.

Articles of a treaty and agreement made and entered into at Washington City, D. C., on the second day of March, one thousand eight hundred and sixty-eight, by and between Nathaniel G. Taylor, Commissioner of Indian Affairs, Alexander C. Hunt, Governor of Colorado Territory and ex-officio superintendent of Indian affairs, and Kit Carson, duly authorized to represent the United States, of the one part, and the representatives of the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah bands of Ute Indians, (whose names are hereto subscribed,) duly authorized and empowered to act for the body of the people of said bands, of the other part, witness:

ARTICLE I. All the provisions of the treaty concluded with the Tabeguache band of Utah Indians, October seventh, one thousand eight hundred and sixty-three, as amended by the Senate of the United States and proclaimed December fourteenth, one thousand eight hundred and sixty-four, which are not inconsistent with the provisions of this treaty, as hereinafter provided, are hereby reaffirmed and declared to be applicable and to continue in force as well to the other bands, respectively, parties to this treaty, as to the Tabeguache band of Utah Indians.

Certain provisions of former treaty reaffirmed. Vol. xiii. p. 673.

ARTICLE II. The United States agree that the following district of country, to wit: commencing at that point on the southern boundary line of the Territory of Colorado where the meridian of longitude 107° west from Greenwich crosses the same; running thence north with said meridian to a point fifteen miles due north of where said meridian intersects the fortieth parallel of north latitude; thence due west to the western boundary line of said Territory; thence south with said western boundary line of said Territory to the southern boundary line of said Territory; thence east with said southern boundary line to the place of beginning, shall be, and the same is hereby, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them;

Reservation.

Boundaries.

Only certain persons to reside thereon.

and the United States now solemnly agree that no persons, except those herein authorized so to do, and except such officers, agents, and employes of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law shall ever be permitted to pass over, settle upon, or reside in the territory described in this article, except as herein otherwise provided.

Claims to all other lands released.

ARTICLE III. It is further agreed by the Indians, parties hereto, that henceforth they will and do hereby relinquish all claims and rights in and to any portion of the United States or Territories, except such as are embraced in the limits defined in the preceding article.

Two agencies on the reservation.

ARTICLE IV. The United States agree to establish two agencies on the reservation provided for in article two, one for the Grand River, Yampa, and Uintah bands, on White river, and the other for the Tabeguache, Muache, Weeminuche, and Capote bands, on the Rio de los Pinos, on the reservation, and at its own proper expense to construct at each of said agencies a warehouse or store-room for the use of the agent in storing goods belonging to the Indians, to cost not exceeding fifteen hundred dollars; an agency building for the residence of the agent, to cost not exceeding three thousand dollars; and four other buildings, for a carpenter, farmer, blacksmith, and miller, each to cost not exceeding two thousand dollars; also a school-house or mission building, so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding five thousand dollars.

Warehouse and other buildings.

School-house.

Water-power saw-mill.

The United States agree, further, to cause to be erected on said reservation, and near to each agency herein authorized, respectively, a good water-power saw-mill, with a grist-mill and a shingle-machine attached, the same to cost not exceeding eight thousand dollars each: *Provided*, The same shall not be erected until such time as the Secretary of the Interior may think it necessary to the wants of the Indians.

Indian agents to make their homes and reside where.

ARTICLE V. The United States agree that the agents for said Indians, in the future, shall make their homes at the agency buildings; that they shall reside among the Indians, and keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint, by and against the Indians, as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined on them by law. In all cases of depredation on person or property, they shall cause the evidence to be taken in writing and forwarded, together with their finding, to the Commissioner of Indian Affairs, whose decision, subject to the revision of the Secretary of the Interior, shall be binding on the parties to this treaty.

Depredations.

Offenders among the whites.

ARTICLE VI. If bad men among the whites or among other people, subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also reimburse the injured person for the loss sustained.

Wrongoers among the Indians.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States and at peace therewith, the tribes herein named solemnly agree that they will, on proof made to their agent and notice to him, deliver up the wrongdoer to the United States, to be tried and punished according to its laws, and in case they wilfully refuse so to do the person injured shall be reimbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States.

Indians, heads of families, desirous to com-

ARTICLE VII. If any individual belonging to said tribe of Indians or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence

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and with the assistance of the agent then in charge, by metes and bounds, a tract of land within said reservation not exceeding one hundred and sixty acres in extent, which tract, when so selected, certified, and recorded in the land book as herein directed, shall cease to be held in common, but the same may be occupied and held in exclusive possession of the person selecting it and his family so long as he or they may continue to cultivate it. Any person over eighteen years of age, not being the head of a family, may, in like manner, select and cause to be certified to him or her for purposes of cultivation a quantity of land not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same as above directed.

For each tract of land so selected a certificate containing a description thereof, and the name of the person selecting it, with a certificate endorsed thereon that the same has been recorded, shall be delivered to the party entitled to it by the agent after the same shall have been recorded by him in a book to be kept in his office, subject to inspection, which said book shall be known as the "Ute Land Book."

The President may at any time order a survey of the reservation; and when so surveyed Congress shall provide for protecting the rights of such Indian settlers in their improvements, and may fix the character of the title held by each.

The United States may pass such laws on the subject of alienation and descent of property, and on all subjects connected with the government of the Indians on said reservation and the internal police thereof as may be thought proper.

ARTICLE VIII. In order to insure the civilization of the bands entering into this treaty, the necessity of education is admitted, especially by such of them as are or may be engaged in either pastoral, agricultural, or other peaceful pursuits of civilized life on said reservation, and they therefore pledge themselves to induce their children, male and female, between the age[s] of seven and eighteen years, to attend school; and it is hereby made the duty of the agent for said Indians to see that this stipulation is complied with to the greatest possible extent; and the United States agree that for every thirty children between said ages who can be induced to attend school a house shall be provided, and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians, and faithfully discharge his or her duties as teacher, — the provisions of this article to continue for not less than twenty years.

ARTICLE IX. When the head of a family or lodge shall have selected lands, and received his certificate as above described, and the agent shall be satisfied that he intends, in good faith, to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, not exceeding in value one hundred dollars, and for each succeeding year he shall continue to farm, for a period of three years more, he shall be entitled to receive seeds and implements as aforesaid, not exceeding in value fifty dollars; and it is further stipulated that such persons as commence farming shall receive instructions from the farmer herein provided for; and it is further stipulated that an additional blacksmith to the one provided for in the treaty of October seventh, one thousand eight hundred and sixty-three, referred to in article one of this treaty, shall be provided with such iron, steel, and other material as may be needed for the Uintah, Yampa, and Grand River agency.

ARTICLE X. At any time after ten years from the making of this treaty, the United States shall have the privilege of withdrawing the farmers, blacksmiths, carpenters, and millers herein, and in the treaty of October seventh, one thousand eight hundred and sixty-three, referred to in article one of this treaty, provided for, but in case of such withdrawal, an additional sum thereafter of ten thousand dollars per an-

mence farming,
may select
lands;
tract to be re-
corded and held
in exclusive pos-
session.

Persons not
heads of fami-
lies.

Ute Land
Book.

Survey, &c.

Alienation and
descent of prop-
erty.

Education.

Children to at-
tend school.

School-houses
and teachers.

Seeds and ag-
ricultural imple-
ments.

Instructions
from farmer.

Additional
blacksmith.

United States
may withdraw
farmers, &c.
Vol. xiii. p. 273.

num shall be devoted to the education of said Indians, and the Commissioner of Indian Affairs shall, upon careful inquiry into their condition, make such rules and regulations, subject to the approval of the Secretary of the Interior, for the expenditure of said sum as will best promote the educational and moral improvement of said Indians.

Clothing, blankets, &c.

ARTICLE XI. That a sum, sufficient in the discretion of Congress for the absolute wants of said Indians, but not to exceed thirty thousand dollars per annum, for thirty years, shall be expended under the direction of the Secretary of the Interior for clothing, blankets, and such other articles of utility as he may think proper and necessary upon full official reports of the condition and wants of said Indians.

Food, meats, and vegetables.

ARTICLE XII. That an additional sum sufficient, in the discretion of Congress, (but not to exceed thirty thousand dollars per annum,) to supply the wants of said Indians for food, shall be annually expended under the direction of the Secretary of the Interior, in supplying said Indians with beef, mutton, wheat, flour, beans, and potatoes, until such time as said Indians shall be found to be capable of sustaining themselves.

Cows and sheep.

ARTICLE XIII. That for the purpose of inducing said Indians to adopt habits of civilized life and become self-sustaining, the sum of forty-five thousand dollars, for the first year, shall be expended under the direction of the Secretary of the Interior, in providing each lodge or head of a family in said confederated bands with one gentle American cow, as distinguished from the ordinary Mexican or Texas breed, and five head of sheep; also one good bull for every twenty-five head of cows, and such further sums annually, in the discretion of Congress, as may be necessary, not to exceed forty-five thousand dollars per annum, and not for a longer period than four years, shall be expended as aforesaid to every lodge or head of a family that shows a disposition to preserve said stock for increase.

Part stricken out.
Post, p. 623.

Railroads and highways to have right of way.

ARTICLE XIV. The said confederated bands agree that whensoever, in the opinion of the President of the United States, the public interests may require it, that all roads, highways, and railroads, authorized by law, shall have the right of way through the reservation herein designated.

Teachers and mechanics, and their support.

ARTICLE XV. The United States hereby agree to furnish the Indians the teachers, carpenters, millers, farmers, and blacksmiths, as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

Cessions of reservations not to be valid, unless, &c.

ARTICLE XVI. No treaty for the cession of any portion or part of the reservation herein described, which may be held in common, shall be of any validity or force as against the said Indians, unless executed and signed by at least three fourths of all the adult male Indians occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his right to any tract of land selected by him, as provided in article seven of this treaty.

Appropriations, how to apply and be divided.

ARTICLE XVII. All appropriations now made, or to be hereafter made, as well as goods and stock due these Indians under existing treaties, shall apply as if this treaty had not been made, and be divided proportionately among the seven bands named in this treaty, as also shall all annuities and allowances hereafter to be made: *Provided*, That if any chief of either of the confederated bands make war against the people of the United States, or in any manner violate this treaty in any essential part, said chief shall forfeit his position as chief and all rights to any of the benefits of this treaty: *But provided further*, Any Indian of either of these confederated bands who shall remain at peace, and abide by the terms of this treaty in all its essentials, shall be entitled to its benefits and provisions, notwithstanding his particular chief and band may have forfeited their rights thereto.

Forfeitures by making war, &c.

Those at peace.

and the Commission their condition, of the Secretary best promote the

of Congress for thirty thousand der the direction and such other upon full official

he discretion of per annum,) to usually expended supplying said toes, until such ing themselves. Indians to adopt um of forty-five ler the direction e or head of a can cow, as dis- and five head cows, and such ty be necessary, not for a longer every lodge or id stock for in-

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ion or part of amon, shall be executed and s occupying or be understood sent, any indi- d selected by

be hereafter isting treaties, vided propor- o shall all an- t if any chief people of the ssential part, to any of the of either of abide by the to its benefits id may have

In testimony whereof, the commissioners as aforesaid on the part of the United States, and the undersigned representatives of the Tabeguache, Muache, Capote, Weeminuche, Yampa; Grand River and Uintah bands of Ute Indians, duly authorized and empowered to act for the body of the people of said bands, have hereunto set their hands and seals, at the place and on the day, month and year first hereinbefore written.

Execution.

N. G. TAYLOR,	[SEAL.]
A. C. HUNT, <i>Governor, &c.</i> ,	[SEAL.]
KIT CARSON,	[SEAL.]
<i>Commissioners on the part of the United States.</i>	
U-RE,	his x mark,
KA-NI-ACHE,	his x mark,
AN-KA-TOSH,	his x mark,
JOSE-MARIA,	his x mark,
NI-CA-A-GAT, or Greenleaf,	his x mark,
GUERO,	his x mark,
PA-ANT,	his x mark,
PI-AH,	his x mark,
SU-VI-AP,	his x mark,
PA-BU-SAT,	his x mark,

Witnesses:

DANIEL C. OAKES,
U. S. Ind. Agent.

LAFAYETTE HEAD,
U. S. Indian Agent.

U. M. CURTIS,
Interpreter.

H. P. BENNET,
ALBERT G. BOONE,
E. H. KELLOGG,
WM. J. GODFREY.

And whereas, the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the twenty-fifth day of July, one thousand eight hundred and sixty-eight, advise and consent to the ratification of the same, with an amendment, by a resolution in the words and figures following, to wit:—

Ratification with amendment.

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES, }
July 25, 1868. }

Resolved, (two thirds of the senators present concurring,) That the Senate advise and consent to the ratification of the articles of a treaty and agreement made and entered into at Washington City, D. C., on the second day of March, one thousand eight hundred and sixty-eight, between the United States and the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uinta[h] bands of Ute Indians, with the following

AMENDMENT:

ARTICLE XIII. Strike out the following words: "also one good bull for every twenty-five [head of] cows, and such further sums annually, in the discretion of Congress; as may be necessary, not to exceed forty-five thousand dollars per annum, and not for a longer period than four years, shall be expended as aforesaid to every lodge or head of a family that shows a disposition to preserve said stock for increase."

Amendment, Art. XIII. Ante, p. 623.

Attest:

GEO. C. GORHAM,
Secretary.

TREATY WITH THE UTE INDIANS. MARCH 2, 1868.

Amendment
assented to.

And whereas the foregoing amendment having been fully explained and interpreted to certain duly authorized chiefs and headmen of the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah bands of Ute Indians, they did, to wit: those of the Grand River and Uintah Ute Indians on the fifteenth day of August, in the year one thousand eight hundred and sixty-eight, those of the Yampas on the first day of September, in the same year, those of the Tabeguaches and Muaches on the fourteenth day of September, in the same year, those of the Capote Utes on the twenty-fourth day of September, in the same year, and those of the Weeminuche Utes on the twenty-fifth day of September, in the same year, give their free and voluntary assent to the said amendment in a writing, which, after reciting the aforesaid action of the Senate and its said proposed amendment, concludes in the words and figures following, to wit:—

Whereas the Senate of the United States has advised and consented to the ratification of the treaty made on the second day of March, one thousand eight hundred and sixty-eight, with the Tabeguache, Muache, Capote, Weeminuche, Yampa, Grand River, and Uintah bands of Ute Indians, with the following amendment, to wit:—

In Article XIII. strike out the following words: "also one good bull for every twenty-[five head of] cows, and such further sums annually, in the discretion of Congress, as may be necessary, not to exceed forty-five thousand dollars per annum, and not for a longer period than four years, shall be expended as aforesaid to every lodge or head of a family that shows a disposition to preserve said stock for increase."

Now, therefore, we, the chiefs and headmen of the aforesaid named bands of Ute Indians, duly authorized by our people, do hereby assent and agree to the said amendment, the same having been interpreted to us, and being fully understood by us.

Witness our hands and seals on the days and dates set opposite our names respectively.

Date of Signing.	Signatures.	Interpretation of Names.	Band
1868. Aug. 15	SAC-WE-OCH	his X mark.	Grand River Ute Indians.
	TAH-NACH	his X mark.	
	PAH-AH-PITCH	his X mark.	
	TAB-Y-OU-SOUCK-EN	his X mark.	
	SHOU-WACH-A-WICKET	his X mark.	
	PE-AH	his X mark.	
	AH-UMP	his X mark.	Uintah Ute Indians.
	AN-TRO	his X mark.	
	PAH	his X mark.	
	QUIR-NAUCH	his X mark.	
	YAH-MAH-NA	his X mark.	

TREATY WITH THE UTE INDIANS. MARCH 2, 1868.

fully explained
men of the Ta-
l River, and Uin-
Grand River and
e year one thou-
on the first day of
and Muaches on
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amendment in a
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gures following,

and consented to
March, one thou-
Muache, Capote,
of Ute Indians,

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than four years,
of a family that

foresaid named
o hereby assent
en interpreted to

set opposite our

Date of Signing.	Signatures.	Interpretation of Names.	Band.
Sept. 14.	OU-RAY	his X mark.	Arrow.
	SHA-WA-NA	his X mark.	Blue Flower.
	GUERO	his X mark.	Light Haired.
	TAH-BE-WAH-CHE-KAH	his X mark.	Sun Rise.
	AH-KAN-ASH	his X mark.	Red Cloud.
	KA-NI-ACHE	his X mark.	One who was taken down.
	ANKA-TOSH	his X mark.	Red. (Ute.)
	SAP-PO-WAN-ERI	his X mark.	
	TU-SA-SA-RI-BE	his X mark.	
	NA-CA-GET	his X mark.	Son to Tu-sa-sa-ri-be.
	YA-MA-AJ	his X mark.	or George.

Signed in the presence of
A. SAGENDORF.
URIAH M. CURTIS, *Spec. Interpreter.*
E. H. KELLOGG, *Secty. Col. Ind. Suptcy.*
DANIEL C. OAKES, *U. S. Ind. Agent.*
LOUIS O. HOWELL.

Date of Signing.	Signatures.	Interpretation of Names.	Band.
Sept. 1.	SA-WA-WAT-SE-WITCH	his X mark.	Blue River.
	COLORADO	his X mark.	Red, (Spanish.)
	PA-ANT	his X mark.	Tall.
	SU-RI-AP	his X mark.	Lodge Pole's Son.
	NICK-A-A-GAH	his H mark.	Green Leaf.

Signed in the presence of
E. H. KELLOGG, *Secretary Indian Superintendency Colorado Territory.*
U. M. CURTIS, *Spec. U. S. Interpreter.*
DANIEL C. OAKES, *U. S. Indian Agent.*
H. P. BENNET.
LOUIS O. HOWELL.

Date of Signing.	Signatures.	Interpretation of Names.	Band.
Sept. 14.	OU-RAY	his X mark.	Arrow.
	SHA-WA-NA	his X mark.	Blue Flower.
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	ANKA-TOSH	his X mark.	Red. (Ute.)
	SAP-PO-WAN-ERI	his X mark.	
	TU-SA-SA-RI-BE	his X mark.	
	NA-CA-GET	his X mark.	Son to Tu-sa-sa-ri-be.
	YA-MA-AJ	his X mark.	or George.

Signed in the presence of
WM. J. GODFREY.
DANIEL C. OAKES, *U. S. Ind. Agt.*
EDWARD R. HARRIS, *Special Interpreter.*
E. H. KELLOGG, *Secty. Col. Ind. Suptcy.*
LOUIS O. HOWELL,
URIAH M. CURTIS, *Interp. ver.*

TREATY WITH THE UTE INDIANS. MARCH 2, 1868.

To the other copy of these instruments are signed as witnesses the following names: Juan Martine Martines, (friend of Indians,) Albert H. Pfeiffer, (their old agent,) Manuel Lusero.

Date of Signing.	Signature.	Interpretation of Names.	Band.
Sept. 24.	SO-BO-TA	his X mark.	Ca-po-las Utes.
	I-SI-DRO	his X mark.	
	SOW-WA-CH-WICHE	his X mark.	
	BA-BU-ZAT	his X mark.	
	SAB-OU-ICHIE	his X mark.	
	CHU-I-WISH	his X mark.	
	I-TA-LI-UH	his X mark.	
	E-RI-AT-OW-UP	his X mark.	
	AA-CA-WA	his X mark.	
	AC-I-APO-CO-EGO	his X mark.	
	MARTINE	his X mark.	
	OU-A-CHEE	his X mark.	
	TAP-AP-O-WATIE	his X mark.	
SU-VI-ATH	his X mark.	The Swoop of a Bird.	
WI-AR-OW	his X mark.		

Signed in the presence of
 LAFAYETTE HEAD.
 ALB. H. PFEIFFER.
 MANUEL LUSERO.
 E. H. KELLOGG, *Secty. Col. Ind. Suptcy.*
 URIAH M. CURTIS, *Interpreter.*
 DANIEL C. OAKES, *U. S. Ind. Agent.*

Date of Signing.	Signatures.	Interpretation of Names.	Band.
Sept. 25.	PA-JA-CHO-PE	his X mark.	We-mi-an-ches Utes.
	PA-NO-AR	his X mark.	
	SU-BI-TO-AU	his X mark.	
	TE-SA-GA-RA-POU-IT	his X mark.	
	SA-PO-EU-A-WA	his X mark.	
	QU-ER-A-TA	his X mark.	

witnesses the fol-
lians,) Albert H.

Signed in the presence of

LAFAYETTE HEAD.

MANUEL LUSERO.

ALB. H. PFEIFFER.

E. H. KELLOGG, *Secty. Col. Ind. Suptcy.*

JUAN MARTINE MARTINES, *Interpreter and Indian's Friend.*

DANIEL C. OAKES, *U. S. Ind. Agent.*

URIAH M. CURTIS, *Interpreter.*

of Names.	Band.
	Ga-po-tas Utes.
Water.	
Abdomen.	
Deer	
	Proclaimed.
Mexican	
Bird.	

I hereby certify that, pursuant to the order from the Commissioner of Indian Affairs, dated August fourth, one thousand eight hundred and sixty-eight, I visited and held councils with the various bands of Ute Indians, at the times and places named in this instrument; and to all those familiar with the provisions of the treaty referred to have had the Senate amendment fully interpreted to them, and to all those not familiar with the treaty itself I have had the same fully explained and interpreted; and the forty-seven chiefs whose names are hereunto subscribed, placed their names to this instrument with the full knowledge of its contents and likewise with the provisions of the treaty itself.

Given under my hand at Denver, this fourteenth day of October, one thousand eight hundred and sixty-eight.

A. C. HUNT,
Gov. Ex-off. Supt. Ind. Affairs.

Now, therefore, be it known that I, ANDREW JOHNSON, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in its resolution of the twenty-fifth day of July, one thousand eight hundred and sixty-eight, accept, ratify, and confirm the said treaty, with the amendment, as aforesaid.

In testimony whereof I have hereto signed my name, and caused the seal of the United States to be affixed.

Done at the city of Washington, this sixth day of November, in the [SEAL.] year of our Lord one thousand eight hundred and sixty-eight, and of the Independence of the United States of America the ninety-third.

ANDREW JOHNSON.

By the President:
WILLIAM H. SEWARD,
Secretary of State.

of Names.	Band.
	Ye-mi-nu-ches Utes.

Public Law 87-828

October 15, 1962
[H. R. 9342]

AN ACT

To provide for an exchange of lands between the United States and the Southern Ute Indian Tribe, and for other purposes.

Indians.
Southern Ute
Tribe, Colo.
Exchange of
lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) there is hereby transferred to the United States all of the right, title, and interest of the Southern Ute Indian Tribe in the following lands, which are needed for the Navajo Dam and Reservoir project, except the minerals therein and the right to prospect for and remove them in a manner that does not impair the project, as prescribed by the Secretary of the Interior:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO
TOWNSHIP 32 NORTH, RANGE 4 WEST

Section 16: West half northwest quarter southwest quarter southwest quarter, northwest quarter southwest quarter southwest quarter southwest quarter.

Section 17: South half south half northwest quarter southeast quarter, north half southwest quarter southwest quarter, north half south half southwest quarter southwest quarter, south half southwest quarter northeast quarter southeast quarter,

Section 18: North half northwest quarter southwest quarter, northeast quarter southeast quarter northwest quarter southwest quarter, north half southeast quarter southeast quarter, north half south half southeast quarter southeast quarter, northeast quarter southwest quarter southeast quarter, north half northwest quarter southwest quarter southeast quarter, north half northeast quarter southeast quarter southwest quarter.

TOWNSHIP 32 NORTH, RANGE 5 WEST

Section 5: Southeast quarter northeast quarter southeast quarter northwest quarter, east half southeast quarter southeast quarter northwest quarter,

Section 9: West half, east half southeast quarter southeast quarter, west half southeast quarter southeast quarter, southwest quarter southeast quarter, southeast quarter southeast quarter southeast quarter southeast quarter,

Section 10: Southeast quarter southeast quarter, southwest quarter southeast quarter, northeast quarter southeast quarter northeast quarter southeast quarter, south half south half northeast quarter southeast quarter, southeast quarter southeast quarter southwest quarter, south half southwest quarter southeast quarter southwest quarter, northeast quarter southwest quarter southeast quarter southwest quarter, southeast quarter southeast quarter southwest quarter southwest quarter,

Section 11: South half south half northwest quarter southwest quarter, northwest quarter southwest quarter northwest quarter southwest quarter, south half southwest quarter northeast quarter southwest quarter,

Section 12: Southeast quarter southwest quarter southwest quarter southwest quarter, south half southeast quarter southwest quarter southwest quarter, south half south half southeast quarter southwest quarter,

Section 13: Northeast quarter northeast quarter southwest quarter, north half northwest quarter southeast quarter, north half north half northeast quarter southeast quarter,

Section 14: North half north half northeast quarter southwest quarter, north half northeast quarter northwest quarter southwest quarter, north half northwest quarter northwest quarter southeast quarter,

Section 15: West half northwest quarter northeast quarter southeast quarter, west half northeast quarter, northwest quarter southeast quarter, north half north half southwest quarter southeast quarter,

Section 16: Northeast quarter.

Containing 707.5 acres, more or less.

(b) In exchange for such conveyance, the Secretary of the Interior is authorized to transfer to the United States in trust for the Southern Ute Indian Tribe, subject to valid existing rights, public lands on the Archuleta Mesa, reserving to the United States the minerals therein and the right to prospect for and remove them under regulations of the Secretary of the Interior, that are contiguous to the present eastern boundary of the Southern Ute Indian Reservation, and that have a value equal to or not materially greater than the value of the lands conveyed by the tribe, such values to be determined by the Secretary: *Provided*, That such public lands shall be selected in a manner that will not increase the Government's management problem for other public lands, the selection shall be approved by the Southern Ute Indian Tribe, and the Southern Ute Indian Tribe shall pay to the United States any difference in the values of the lands exchanged.

Archuleta Mesa,
reservation of
mineral rights by
U. S.

(c) The owners of the range improvements of a permanent nature placed, under the authority of a permit from or agreement with the United States, on the public lands conveyed to the tribe shall be compensated for the reasonable value of such improvements, as determined by the Secretary, out of appropriations available for the construction of the Navajo unit, Colorado River storage project.

Compensation
for improvements.

(d) Persons whose grazing permits, licenses, or leases on the public lands conveyed to the tribe are canceled because of such conveyance shall be compensated in accordance with the standard prescribed by the Act of July 9, 1942, as amended (43 U.S.C. 315q), out of appropriations available for the construction of the Navajo unit, Colorado River storage project.

56 Stat. 654.

(e) The public lands conveyed to the tribe shall be a part of the Southern Ute Indian Reservation and shall be subject to the laws and regulations applicable to other tribal lands in that reservation.

(f) The tribal lands conveyed to the United States shall no longer be "Indian country" within the meaning of section 1151 of title 18 of the United States Code. They shall have the status of public lands withdrawn for administration pursuant to the Federal reclamation laws, and they shall be subject to all laws and regulations governing the use and disposition of public lands in that status.

"Indian country."
62 Stat. 757.

(g) In any right-of-way granted by the United States for a railroad over the tribal lands conveyed to the United States, the Secretary shall provide the Southern Ute Indians, at such points as he determines to be reasonable, the privilege of crossing such right-of-way.

R. R. right-of-
way.
Crossing priv-
ileges.

(h) The tribal lands conveyed to the United States shall not be utilized for public recreational facilities without the approval of the Southern Ute Tribal Council.

Public recrea-
tional facilities,
approval.

(i) Nothing in this Act shall be construed to abridge any fishing rights that are vested in the Indians.

Fishing rights.

Approved October 15, 1962.

shall have such powers, rights, duties, and obligations as it had at the time of the issuance of the proclamation with the same force and effect as to such corporation as if the proclamation had not been issued."

D. C. Code
29-941.

(11) Subsection (a) of section 130 of such Act is amended by adding at the end thereof the following: "Nothing in this section shall prevent the filing, without the payment of all such fees, charges and penalties, of a written notice of resignation by a registered agent of a corporation, domestic or foreign."

D. C. Code
29-947.

(12) Section 136 of such Act is amended to read as follows:

"ACTION WITHOUT A MEETING

"SEC. 136. Any action required or permitted to be taken at a meeting of the shareholders of a corporation or of the board of directors or of any committee thereof may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the shareholders entitled to vote with respect to the subject matter thereof, or by all of the members of the board or of such committee as the case may be, and such written consent is filed with the minutes of proceedings of the shareholders or the board or the committee. Such consent shall have the same force and effect as a unanimous vote of the shareholders or the board or the committee, as the case may be, and may be stated as such in any article or document filed with the Commissioners under this Act."

(13) Such Act is amended by adding at the end thereof the following new section:

"VERIFICATION NO LONGER REQUIRED

"SEC. 151. A requirement in this Act that any instrument be verified by oath need not be complied with after the effective date of the District of Columbia Business Corporation Act Amendments of 1963. A person who signs any instrument delivered to the Commissioners pursuant to this Act knowing it to contain a misstatement of fact shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding \$500, or by imprisonment not exceeding one year, or both, in the discretion of the court."

Short title.

SEC. 2. This Act may be cited as the "District of Columbia Business Corporation Act Amendments of 1963".

Effective date.

SEC. 3. This Act shall become effective sixty days after the date of its enactment.

Approved September 3, 1963.

Public Law 88-112

AN ACT

September 6, 1963
[H. R. 5883]

To correct a land description in the Act entitled "To provide for an exchange of lands between the United States and the Southern Ute Indian Tribe, and for other purposes".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 1(a) of the Act of October 15, 1962 (Public Law 87-828; 76 Stat. 954), is amended by deleting the comma after "Section 9: West half".

Approved September 6, 1963.

Indians.
Southern Ute
Tribe.
Exchange of
land.

Public La

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Colorado 035508

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, an Order of the authorized officer of the Bureau of Indian Affairs is now deposited in the Bureau of Land Management, directing that, pursuant to the Act of October 15, 1962 (76 Stat. 954) as amended by the Act of September 9, 1963 (77 Stat. 140), a trust patent issue to the Southern Ute Indian Tribe for the following described land:

New Mexico Principal Meridian, Colorado.

T. 32 N., R. 1 W.,

Sec. 6, Lots 6 and 7;

Sec. 7, All;

Sec. 8, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 17, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ N $\frac{1}{2}$, S $\frac{1}{2}$;

Sec. 18, Lots 1, 2, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 19, Lots 5, 6, 7, 8, 9, 10, 11 and 12;

Sec. 20, Lots 3, 4, 5, 6, 7, 8, 9 and 10;

Sec. 21, W $\frac{1}{2}$ of Lot 6 and W $\frac{1}{2}$ of Lot 7.

The area described contains 2,837.38 acres.

KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, hereby declares that it does and will hold the land above described (subject to all statutory provisions and restrictions) in trust for the sole use and benefit of the Southern Ute Indian Tribe; and, in accordance with law, the United States will convey the same by patent in fee, discharged of said trust and free from all charge and encumbrance whatsoever, unto the said Southern Ute Indian Tribe, as provided by law.

There is reserved from the land hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

Excepting and reserving to the United States, all minerals in the land so patented, together with the right to prospect for, mine and remove such deposits from the same under regulations of the Secretary of the Interior.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in Silver Spring, Maryland the twenty-ninth day of SEPTEMBER in the year of our Lord one thousand nine hundred and SIXTY-SEVEN and of the Independence of the United States the one hundred and NINETY-SECOND.

By David A. Kivula
Manager, Eastern States Land Office

[SEAL]

I hereby certify that this reproduction is a copy of the official record on file in this office.

SEP 17 1990

Patricia M. ...
Authorized Signature
COLORADO STATE OFFICE Denver Colorado

1241410

Patent Number _____

and secretary, and the funds hereby appropriated shall be paid out on the order of such chairman and secretary, and a full, itemized account of all such expenditures shall accompany the final report of the commission when submitted to Congress.

Five Civilized Tribes.
Preparation of complete fiscal history, etc., directed.
Post, p. 335.

To enable the Secretary of the Interior to employ a chartered and certified accountant for the purpose of preparing, under the direction of said Secretary, a complete separate fiscal and financial history and statement of the affairs of each of the Five Civilized Tribes of Indians, \$10,000, or such part thereof as may be necessary.

Agreement with Wiminuche Band of Southern Ute Indians, Colo.

That an agreement, made at the Navajo Springs Indian Agency, in the State of Colorado, on the tenth day of May, in the year of our Lord nineteen hundred and eleven, with the Wiminuche Band of Southern Ute Indians, belonging to the jurisdiction of the Navajo Springs Indian Agency, be, and the same is hereby, modified and amended to read as follows:

"ARTICLE I.

Lands relinquished.

"The said Wiminuche Band of Southern Ute Indians hereby agrees to relinquish and surrender to the United States of America all its right, title, and interest in and to that portion of its reservation described as follows:

"Beginning at a point on the north boundary of the Southern Ute Indian Reservation in southwestern Colorado where the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, 'south of the Ute boundary,' intersects the same; thence south to the south quarter corner of unsurveyed section twenty-six (26), said township; thence west to the southwest corner of unsurveyed section twenty-five (25), township thirty-four (34) north, range sixteen (16) west; thence north to the northwest corner of unsurveyed fractional section one (1), said township; thence east to the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, 'south of the Ute boundary,' the place of beginning; fourteen thousand five hundred and twenty (14,520) acres, more or less, lying and being in Montezuma County, State of Colorado.

"ARTICLE II.

Lands to be conveyed in exchange.

"In consideration for the lands relinquished and surrendered as aforesaid the United States hereby agrees to convey to said Wiminuche Band of Southern Ute Indians in exchange therefor lands lying within the present boundaries of the Mesa Verde National Park and from the public domain, said lands to become a part of the reservation of said Wiminuche Band of Southern Ute Indians and to take on the same character and title as the rest of the land of the said reservation, of which they become a part by virtue of this agreement, and described as follows:

"Sections one (1), two (2), three (3), four (4), five (5), fractional sections eight (8), nine (9), ten (10), eleven (11), twelve (12), in township thirty-four (34) north, range sixteen (16), west, 'north of the Ute boundary'; also sections twenty-five (25), twenty-six (26), twenty-seven (27), southeast quarter section twenty-eight (28), sections thirty-two (32), thirty-three (33), thirty-four (34), thirty-five (35), and thirty-six (36), township thirty-five (35) north, range sixteen (16) west, containing ten thousand and eighty (10,080) acres, more or less.

"Also sections five (5) and six (6) and fractional sections seven (7) and eight (8) (unsurveyed) in township thirty-four (34) north, range seventeen (17) west, 'north of the Ute boundary,' and sections one

(1), two (2), three (3), nine (9), ten (10), township thirty-four (34) north, range sixteen (16) west, 'north of the Ute boundary'; also sections twenty-five (25), twenty-six (26), twenty-seven (27), southeast quarter section twenty-eight (28), sections thirty-two (32), thirty-three (33), thirty-four (34), thirty-five (35), and thirty-six (36), township thirty-five (35) north, range sixteen (16) west, containing ten thousand and eighty (10,080) acres, more or less.

"And in case it is described have been of the United States agreed that public lying adjacent to to said Wiminuche area of lands to lands, the total area one hundred and

"Nothing in the Indians parties her entitled under exi

"This agreement hereto when ratified

That the said ratified, and confi

That the Secretary the area conveyed quished any tract which may be need to the Indians in rights attaching t

That the boundary the Act of Congress and six (Thirty-fourteen), is hereby extinguished by the Indians and the boundary

Beginning at a Indian Reservation corner of unsurveyed (34) north, range sixteen (16) west, 'north of the Ute boundary,' intersects the same unsurveyed section the southwest corner township thirty-four (34) north, range sixteen (16) west, 'north of the Ute boundary,' and the boundary

(1), two (2), three (3), four (4), five (5), and fractional sections eight (8), nine (9), ten (10), eleven (11), and twelve (12) (unsurveyed), in township thirty-four (34) north, range eighteen (18) west, 'north of the Ute boundary,' and sections nineteen (19), twenty (20), twenty-nine (29), thirty (30), thirty-one (31), and thirty-two (32), in township thirty-five (35) north, range seventeen (17) west, and sections twenty (20), twenty-one (21), twenty-two (22), twenty-three (23), twenty-four (24), twenty-five (25), twenty-six (26), twenty-seven (27), twenty-eight (28), twenty-nine (29), thirty (30), thirty-one (31), thirty-two (32), thirty-three (33), thirty-four (34), thirty-five (35), and thirty-six (36) in township thirty-five (35) north, range eighteen (18), west, New Mexico principal meridian, containing twenty thousand one hundred and sixty (20,160) acres, more or less.

"And in case it be found that any portion of the lands herein described have been entered or patented under any of the land laws of the United States, then, and in that event, it is stipulated and agreed that public lands of an equal amount and like character and lying adjacent to the lands herein described be substituted and given to said Wiminuche Band of Southern Ute Indians, to make the total area of lands to be given in amount equal to the above-described lands, the total area in said western tract to contain twenty thousand one hundred and sixty (20,160) acres.

Additional.

"ARTICLE III.

"Nothing in this agreement shall be construed to deprive the Indians parties hereto of any annuities or benefits to which they are entitled under existing laws and treaties.

Annuities, etc., not impaired.

"ARTICLE IV.

"This agreement shall become effective and binding on the parties hereto when ratified by the Congress of the United States."

Ratification required.

That the said agreement be, and the same is hereby, accepted, ratified, and confirmed as herein amended.

Agreement confirmed.

That the Secretary of the Interior is hereby authorized to add to the area conveyed to the Indians in exchange for the lands relinquished any tracts of unappropriated public land adjoining thereto which may be necessary to make the total area of the acreage ceded to the Indians in lieu of that lost to them by any prior existing valid rights attaching thereto.

Additional lands to be conveyed.

That the boundary of the Mesa Verde National Park, created by the Act of Congress approved June twenty-ninth, nineteen hundred and six (Thirty-fourth Statutes at Large, page six hundred and sixteen), is hereby extended on the south so as to include the land relinquished by the Indians in the foregoing agreement as herein provided and the boundaries of said park shall hereafter be defined as follows:

Mesa Verde National Park. Boundaries extended. Vol. 34, p. 616.

Beginning at a point on the north boundary of the Southern Ute Indian Reservation in southwestern Colorado where the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, "south of the Ute boundary," intersects the same; thence south to the south quarter corner of unsurveyed section twenty-six (26), said township; thence west to the southwest corner of unsurveyed section twenty-five (25), township thirty-four (34) north, range sixteen (16) west; thence north to the northwest corner of unsurveyed fractional section one (1), said township and range; thence west to the southeast corner of fractional section twelve (12), township thirty-four (34) north, range sixteen (16) west, "north of the Ute boundary"; thence north to the northwest corner of section nineteen (19), township thirty-five (35) north,

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range fifteen (15) west; thence east to the southwest corner of the southeast quarter of section sixteen (16), said township; thence north to the northwest corner of the southeast quarter of said section; thence east to the southwest corner of the northeast quarter of section thirteen (13), said township; thence north to the northwest corner of the northeast quarter of said section; thence east to the southwest corner of section seven (7), township thirty-five (35) north, range fourteen (14) west; thence north to the northwest corner of said section; thence east to the southwest corner of section five (5), said township; thence north to the northwest corner of said section; thence east to the northeast corner of said section; thence south to the southeast corner of the northeast quarter of section four (4), said township; thence south to the northwest corner of the southeast quarter of section sixteen (16), said township; thence east to the northeast corner of the southeast quarter of said section; thence south to the northwest corner of section twenty-two (22), said township; thence east to the northeast corner of said section; thence south to the northwest corner of section twenty-six (26), said township; thence east along the north section line of section twenty-six (26) to the east bank of the Rio Mancos; thence in a southeasterly direction along the east bank of the Rio Mancos to its intersection with the northern boundary line of the Southern Ute Indian Reservation; thence west along said Indian reservation boundary to its intersection with the range line between ranges fourteen (14) and fifteen (15) west, the place of beginning;

Included in Park control, etc.

Custody of adjoining prehistoric ruins repealed. Vol. 34, p. 617.

And the provisions of the Act of June twenty-ninth, eighteen hundred and ninety-six, creating the park, are hereby extended over the same.

So much of the Act of June twenty-ninth, nineteen hundred and six, as provides that the custodianship of the Secretary of the Interior shall extend over all prehistoric ruins situated within five miles of the eastern, western, and northern boundaries of the park, as described in said Act, not on lands alienated by patent from the ownership of the United States, is hereby repealed.

Arizona and New Mexico.

ARIZONA AND NEW MEXICO.

Support of Indians in.

SEC. 2. For support and civilization of Indians in Arizona and New Mexico, \$330,000.

Fort Mojave School.

For support and education of two hundred Indian pupils at the Indian school at Fort Mojave, and for pay of superintendent, \$35,100; for general repairs and improvements, \$3,800; in all, \$38,900.

Phoenix School.

For support and education of seven hundred Indian pupils at the Indian school at Phoenix, Arizona, and for pay of superintendent, \$119,400; for industrial building for girls, \$15,000; for general repairs and improvements, including two steel water tanks, \$12,000; in all, \$146,400: *Provided*, That \$500 of this appropriation, or so much thereof as may be necessary, shall be used in making survey and an estimate of the cost of connecting the sewer system of the Phoenix Indian School with the sewer system of the city of Phoenix, Arizona, and submit a report thereon to Congress on the first Monday in December, nineteen hundred and thirteen.

Proviso. Connecting sewer system.

Truxton Canyon School.

For support and education of one hundred pupils at the Indian school at Truxton Canyon, Arizona, and for pay of superintendent, \$18,200; for general repairs and improvements, \$3,000; in all, \$21,200.

Gila River irrigation system.

For maintenance, care, and protection of machinery and irrigation wells already completed, in connection with the irrigation of the lands of the Pima Indians in the vicinity of Sacaton, in the Gila River Reservation, \$5,000.

COLORADO UTE INDIAN WATER RIGHTS

FINAL SETTLEMENT AGREEMENT

December 10, 1986

STATE OF COLORADO
UTE MOUNTAIN UTE INDIAN TRIBE
SOUTHERN UTE INDIAN TRIBE
UNITED STATES DEPARTMENT OF THE INTERIOR
UNITED STATES DEPARTMENT OF JUSTICE
ANIMAS-LA PLATA WATER CONSERVANCY DISTRICT
DOLORES WATER CONSERVANCY DISTRICT
FLORIDA WATER CONSERVANCY DISTRICT
MANCOS WATER CONSERVANCY DISTRICT
SOUTHWESTERN WATER CONSERVATION DISTRICT
CITY OF DURANGO
TOWN OF PAGOSA SPRINGS
FLORIDA FARMERS DITCH COMPANY
FLORIDA CANAL COMPANY
FAIRFIELD COMMUNITIES, INC.

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COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

The United States, the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, and the additional governmental and private entities signatory hereto, acting through their respective representatives, hereby agree as follows:

I. GENERAL PURPOSES

The purposes of this Colorado Ute Indian Water Rights Final Settlement Agreement are to: (1) determine finally all rights of the Southern Ute and Ute Mountain Ute Indian Tribes, and of the persons claiming under the Tribes, to beneficially use water for, or to beneficially use water on, under, adjacent to or otherwise appurtenant to, the Southern Ute and Ute Mountain Ute Indian Reservations within the State of Colorado; (2) settle existing disputes and remove causes of future controversy between the Tribes and the State, between the Tribes and the United States, and between Indians of the Reservations or their successors and other persons, concerning the rights to beneficially use water in southwestern Colorado; (3) settle all claims by the Tribes and by

the United States on behalf of the Tribes in the water adjudication proceedings pending in the Colorado District Court for Water Division No. 7 pursuant to the Colorado Water Right Determination and Administration Act of 1969, title 37, article 92, C.R.S. (1973 and as amended); (4) to secure for the Tribes an opportunity to derive an economic benefit or generate revenue from the use of the project and non-project reserved water rights secured in this Agreement; (5) to enhance the Tribe's ability to meet their repayment obligations under this Agreement; and (6) to authorize the Tribes to sell, exchange, lease or otherwise temporarily dispose of their water.

II. DEFINITIONS

For purposes of this Agreement:

1. The term "Agreement" shall mean the Colorado Ute Indian Water Rights Final Settlement Agreement.

2. The term "Animas-La Plata Project" means the Animas-La Plata Project, Colorado-New Mexico, a participating project under the Colorado River Storage Project Act, 70 Stat. 105, 43 U.S.C. 620, as amended by the Colorado River Basin Project Act, 82 Stat. 885.

3. The term "Dolores Project" means the Dolores Project, Colorado, a participating project under the Colorado River Storage Project Act, 70 Stat. 105, 43 U.S.C. 620, as amended by the

Colorado River Basin Project Act, 82 Stat. 885.

4. The term "net acres" means the acres, exclusive of lands necessary for roads, buildings, or farm practices, which the Tribes have a right to irrigate pursuant to this Agreement.

5. The term "per annum" means per water year, with a water year commencing on October 1 each year and running through the next succeeding September 30th.

6. The term "Secretary" means the Secretary of the Interior.

7. The term "State Engineer" means the State Engineer of the State of Colorado, as described in title 37, article 80, C.R.S. (1973 & 1986 Supp.), and his agents and employees.

8. The term "State" means the State of Colorado.

9. The term "Tribal lands" means lands owned by the Tribes or Tribal members or lands held in trust or other restricted status by the United States for the benefit of the Tribes or individual Indians.

10. The terms "Tribe" or "Tribes" mean the Ute Mountain Ute Indian Tribe and/or the Southern Ute Indian Tribe, as the context requires, whose Indian reserved water rights are quantified and secured by this Agreement.

11. The term "tributary ground water" means "underground water" as that term is defined and used in section 37-92-103(11), C.R.S. (1973 & 1986 Supp.).

12. The term "project reserved water right" means an Indian reserved water right secured to the Tribes by this Agreement to water supplied either from the Animas-La Plata Project or from the Dolores Project and held in trust by the United States on behalf of the Tribes.

13. The term "non-project reserved water right" means an Indian reserved water right secured to the Tribes by this Agreement other than the rights to water supplied from the Animas-La Plata and Dolores Projects and held in trust by the United States on behalf of the Tribes, and other than water secured to the Southern Ute Indian Tribe from the Florida Project or the Pine River.

14. The term "Tribal permit" means a permit issued by the appropriate Tribal government to authorize the utilization of water allocated to the Tribes under the terms of this Agreement.

15. The term "cfs" means cubic feet per second.

16. The term "combined Highline-Towaoc Canal" means the Highline Ditch as improved and, if necessary, extended, or any other canal or ditch constructed for the purpose of delivering agricultural irrigation and fish and wildlife development water from the Dolores Project to the Ute Mountain Ute Indian Reservation, including the laterals to be constructed by the Bureau of Reclamation pursuant to the DPR.

17. The term "DPR" means the Definite Plan Report dated

September, 1979, for the Animas-La Plata Project or the Definite Plan Report dated April, 1977, and its supplement, dated April 1981, for the Dolores Project, as the context requires.

18. The term "consumptive use" means that quantity of water diverted from the hydrologic stream system and not returned to the hydrologic stream system by either surface flow or percolation.

19. The term "Florida Project" means the Florida Project, Colorado, a participating project under the Colorado River Storage Project Act, 70 Stat. 105, 43 U.S.C. 620, as amended by the Colorado River Basin Project Act, 82 Stat. 885.

20. The term "Vallecito Reservoir" means the Vallecito Reservoir, Colorado, which is located on the Pine River and which is a feature of the Pine River Project, Colorado, which project was constructed under the provisions of section 4 of the Act of June 25, 1910 (36 Stat. 835), and of subsection B, section 4 of the Act of December 5, 1934 (43 Stat. 701).

21. The term "OM&R" means operation, maintenance and replacement.

22. The term "parties" means the signatories to this Agreement.

23. The term "Towaoc Pipeline" means the pipeline to be constructed from the City of Cortez water treatment plant to the Town of Towaoc on the Ute Mountain Ute Indian Reservation, which

pipeline is intended to carry the Ute Mountain Ute Indian Tribes's municipal and industrial water supply from the Dolores Project to the Town of Towaoc.

III. QUANTIFICATION AND DETERMINATION

A. UTE MOUNTAIN UTE INDIAN TRIBE

The Ute Mountain Ute Indian Tribe shall be entitled to the rights described below to beneficially use water from the following sources:

1. Dolores Project

a. The Tribe shall receive a project reserved water right to stored water from the Dolores Project. This project reserved water right shall have an 1868 priority date, shall for all time be subordinated to all water rights decreed and senior to the Dolores Project, and shall share for all time on a pro rata basis the priority of the Dolores Project, which has an adjudication date of March 22, 1963, and an appropriation date of September 10, 1940, C.A. 967, District Court, Montezuma County, Colorado.

b. The project reserved water right shall entitle the Tribe to receive and beneficially use, on that part of the Ute Mountain Ute Indian Reservation within the State or

within the boundaries of the Dolores Water Conservancy District, the following allocations of water from the Project, as measured at McPhee Dam and Reservoir:

(i) a maximum of 1,000 acre-feet per annum of municipal and industrial water;

(ii) a maximum of 23,300 acre-feet per annum of agricultural irrigation water; and

(iii) a maximum of 800 acre-feet per annum for fish and wildlife development.

The project reserved water right shall not exceed the total of the above allocations.

c. During periods of water shortage, deliveries of project water, or deliveries of the supply of water available under the project priority, to the Tribe and to all others shall be as follows:

(i) municipal and industrial water allocations as quantified in the DPR shall first be fully satisfied;

(ii) agricultural irrigation water allocations and other allocations as quantified in the DPR, exclusive of stream fishery releases, shall share shortages on a pro rata basis even if changed to other beneficial uses; and

(iii) stream fishery releases to the Dolores River set forth in the DPR shall be made in accordance

with the operating agreement between the Dolores Water Conservancy District and the United States Bureau of Reclamation's Contracting Officer as specified by the repayment contract between the District and the United States.

The sharing of shortages in the project's water supply shall govern the actual amount of agricultural irrigation water and water for fish and wildlife development delivered to the Tribe whether or not the average supply of 22,900 acre-feet per annum of agricultural irrigation water and of 800 acre-feet per annum of fish and wildlife development water, as contemplated by the DPR, is actually achieved.

d. In proceedings pursuant to Article IV, Section F, the computations concerning the Tribe's historic beneficial use of water shall be based upon:

(i) actual historic monthly deliveries of the available annual supply, made pursuant to the DPR, measured at the McPhee Dam and Reservoir or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically made beneficial use of any unused portion of each year's available water based upon the following monthly percentage distribution of the available water:

<u>Month</u>	<u>Agricultural Irrigation Water</u>	<u>M&I Water</u>	<u>Fish and Wildlife Development Water</u>
October	4%	6%	12.5%
November	0	5	0
December	0	3	0
January	0	3	0
February	0	3	0
March	0	5	0
April	2	8	37.5
May	15	13	0
June	25	16	12.5
July	28	16	12.5
August	16	13	12.5
September	10	9	12.5
Totals	100%	100%	100.0 %

(ii) actual historic consumptive use or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically consumed 50 percent of the unused portion of the water available to the Tribe from its annual municipal and industrial water allocation, 78.5 percent of the unused portion of the water available to the Tribe from its annual agricultural irrigation water allocation, and 100 percent of the unused portion of the water available to the Tribe from its annual fish and wildlife development allocation; or

(iii) any agreement which may be entered into among the State, the Tribe, the Dolores Water Conservancy District and the United States Bureau of Reclamation which modifies (i) and (ii) above.

e. The project reserved water right shall

always be consistent with:

(i) The DPR, except as modified by this Agreement;

(ii) The allocations, shortage provisions, delivery schedules, and consumptive use calculations described in this subsection;

(iii) Bureau of Reclamation procedures, which shall include, among other things, NEPA compliance and assurance that other project water users are not injured by any change in the use of project water.

f. The project reserved water right may be changed pursuant to the change in reserved water right procedures set forth in Article IV, section F; provided, however, that the project reserved water right shall not entitle the Tribe to any other reserved water right from the Mancos or Dolores Rivers, except, in the event of the failure of the project, the Tribe may convert the project reserved water right to a separate reserved storage or reserved direct flow water right from these rivers with the consent of the State Attorney General, the Mancos Water Conservancy District, and the Dolores Water Conservancy District, so that the Tribe and all other project beneficiaries will be placed in the same position in attempting to put their water rights to use.

g. Based upon the parties' expectation that

the combined Highline-Towaoc Canal will be completed, subject to Congressional appropriations, the final settlement of the Tribe's reserved water rights claims on the Mancos and Dolores Rivers as described in this Agreement shall be subject to the following conditions:

(i) If the Dolores Project is completed so as to enable the delivery of water to the Reservation through the combined Highline-Towaoc Canal on or before May 1, 1994, then: (a) the settlement of the Tribe's pending reserved and appropriative water rights claims on both the Mancos River and the Dolores River contained in this Agreement shall become final; (b) the Tribe shall be entitled to the full project reserved water right as described in this subsection; and (c) the Tribe shall not be entitled to claim any additional reserved water rights, either on the Mancos River or on the Dolores River.

(ii) If the combined Highline-Towaoc Canal is not completed so as to enable the delivery of water to the Reservation by May 1, 1994, then by January 1, 1995, the Tribe, in consultation with the United States as trustee, must elect either: (a) to retain the project reserved water right by accepting any portion of the Tribes' allocations of water, excluding municipal and industrial water, for delivery directly from McPhee Reservoir; or (b) to commence litigation or renegotiation of its pending reserved water rights claims on the Mancos

River. If the Tribe, in consultation with the United States as trustee for the Tribe, has not elected to commence litigation or renegotiation of its pending claims on the Mancos River by notification to the parties by January 1, 1995, as provided below, then: (a) the Tribe shall be deemed to have elected to retain the project reserved water right by accepting delivery of its allocations of water directly from McPhee Reservoir, (b) the settlement of the Tribe's pending reserved and appropriative water rights claims on both the Mancos River and the Dolores River contained in this Agreement shall become final; and (c) the Tribe shall not be entitled to claim any additional reserved water rights either on the Mancos River or on the Dolores River. If the Tribe elects to commence litigation or renegotiation of its pending reserved water rights claims on the Mancos River, then: (a) the Tribe shall retain its project reserved water right to 1000 acre feet of municipal and industrial water; (b) the Tribe shall relinquish and forfeit the remainder of the project reserved water right from the Dolores Project as described in this subsection and all other pending reserved and appropriative water rights claims on the Dolores River; and (c) the Tribe shall not be entitled to claim any additional reserved water rights on the Dolores River; provided, however, that if the combined Highline-Towaoc Canal is at any time thereafter completed so as to enable the delivery of water to the Reservation or if the Tribe elects any time there-

after to receive an allocation of water from McPhee Reservoir, in addition to the 1,000 acre feet of municipal and industrial water, then: (a) the Tribe shall be entitled to the full project reserved water right as described in this subsection; (b) the Tribe shall not be entitled to claim any other reserved water rights on either the Mancos River or the Dolores River, and (c) the Tribe shall relinquish any then pending reserved water rights claims or any benefits it may have obtained by litigating or negotiating its reserved water rights claims on the Mancos River, including all reserved water rights which may have been decreed. Notice of the Tribe's election shall be made as follows: to the United States, through the Secretary of the Interior and the Attorney General; to the Tribes, through the respective Tribal Chairman; to the State, through the Attorney General; and to all other parties, through their respective offices.

h. Subject to Congressional appropriations, nothing in this section shall reduce or limit the present authorization of the United States to complete the construction of the Dolores Project in general conformity with the DPR, including the Towaoc drains, if needed.

i. Under no circumstances shall anything in this Agreement be construed as an admission, or be used by any party as evidence that the Tribe is or is not legally entitled to reserved water rights on the Dolores River. The project reserved

water right shall have no precedential or presumptive value in the event the terms of this Agreement do not become final.

j. Repayment of that portion of the construction costs allocable to the Tribe's agricultural irrigation water allocation for which the Tribe is responsible shall be deferred pursuant to the Leavitt Act. Pursuant to the federal legislation required by Article VI, Section A, subsection 1.b: (a) repayment of the construction costs of the joint use facilities that are allocable to the Tribe's municipal and industrial water allocation shall be deferred, and interest thereon shall not accrue, until the water is used or temporarily disposed of by the Tribe; and (b) the reimbursable OM&R costs allocable to the Tribe's municipal and industrial water allocation shall be borne by the United States, subject to Congressional appropriations, until the water is used or temporarily disposed of by the Tribe. As an increment of municipal and industrial water is put to use or otherwise temporarily disposed of, prospective repayment of that increment's pro rata share of the allocable costs shall commence. If the Tribe does not take delivery of its agricultural irrigation or fish and wildlife development water through the combined Highline-Towaoc Canal, then the Tribe shall: (a) continue to remain responsible for such portion of the OM&R costs of the combined Highline-Towaoc Canal as will ensure that all other project users under the combined Highline-Towaoc Canal bear no

greater OM&R costs than would have otherwise been the case; and (b) ensure that deliveries to, and carriage losses of, all other project water users under the combined Highline-Towaoc Canal are not adversely affected. Similarly, the District shall ensure that if non-Indian water users do not take delivery of their agricultural irrigation water through the combined Highline-Towaoc Canal there will not be an increase in the OM&R costs or a reduction in deliveries to the Tribe.

2. Animas-La Plata Project

a. The Tribe shall receive a project reserved water right to water supplied from the Animas-La Plata Project. This project reserved water right shall have an 1868 priority date, shall be subordinated to all water rights decreed and senior to the Animas-La Plata Project, and shall share on a pro rata basis the priority of the Animas-La Plata Project, which has an adjudication date of March 21, 1966, and an appropriation date of September 2, 1938, C.A. 1751-B, District Court, La Plata County, Colorado.

b. The project reserved water right shall entitle the Tribe to receive and beneficially use, on that part of the Ute Mountain Ute Reservation within the State or within the boundaries of the Animas-La Plata Water Conservancy District, the following allocations of water from the Animas-La Plata

Project, as measured at Ridges Basin Dam and Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes:

(i) a maximum of 6,000 acre-feet per annum of municipal and industrial water; and

(ii) a maximum of 26,300 acre-feet per annum of agricultural irrigation water.

The project reserved water right shall not exceed the total of the above allocations; provided, however, that nothing herein shall limit the Tribe's right to receive an additional 900 acre-feet per annum of agricultural irrigation water in accordance with the DPR.

Pending completion of the construction of the Ute Mountain Pumping Plant, the reach of the Dry Side Canal beyond the turn out to the Dry Side Lateral, and the laterals on the Ute Mountain Ute Reservation, the Tribe's allocations of water will be delivered to the Tribe at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant. When the Tribe takes delivery of its municipal and industrial water allocation at these locations, the timing of the deliveries of its annual municipal and industrial water allocation may be at the Tribe's discretion, so long as neither the

project supply nor other project users are adversely affected. The Tribe shall take monthly deliveries of its agricultural irrigation and municipal and industrial water allocations in the manner contemplated by the DPR; provided that the Tribe may take delivery of its agricultural irrigation and municipal and industrial water at its discretion so long as neither the project supply nor other project users are adversely affected.

c. During periods of water shortage, deliveries of project water, or deliveries of the supply of water available under the project priority, to the Tribe and to all others shall be as follows:

(i) the municipal and industrial water allocations as quantified in the DPR shall first be fully satisfied; and

(ii) the agricultural irrigation water allocations as quantified in the DPR shall share shortages on a pro rata basis even if changed to other beneficial uses.

The sharing of shortages in the project's water supply shall govern the actual amount of agricultural irrigation water delivered to the Tribe whether or not the average supply of 25,560 acre-feet per annum as contemplated by the DPR is actually achieved.

d. In proceedings pursuant to Article IV, Section F, the computations concerning the Tribe's historic beneficial use of water shall be based upon:

(i) actual historic monthly deliveries of the available annual supply, measured at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or if there has not yet been full use of water, then the Tribe shall be deemed to have historically made beneficial use of any unused portion of each year's available water based upon the following monthly percentage distributions of the available water:

<u>Month</u>	<u>Agricultural Irrigation Water</u>	<u>M&I Water</u>
October	2.0%	20.0%
November	0	0
December	0	0
January	0	0
February	0	0
March	0	0
April	1.0	20.0
May	11.0	20.0
June	26.0	0
July	31.0	0
August	18.0	20.0
September	11.0	20.0
Totals	100.0%	100.0%

(ii) actual historic use or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically consumed 100 percent of the unused portion of the water available to the Tribe from its annual municipal and industrial allocation and 80.1 percent of the unused portion of the water available to the Tribe from its

annual agricultural irrigation allocation; or

(iii) any agreement which may be entered into among the State, the Tribes, the Animas-La Plata Water Conservancy District, and the United States Bureau of Reclamation which modifies (i) and (ii) above.

e. The project reserved water right shall always be consistent with:

(i) the allocations, shortage provisions, delivery schedules, and consumptive use calculations described in this subsection;

(ii) Bureau of Reclamation procedures, which shall include, among other things, NEPA compliance and assurance that all other project water users are not injured by any change in the use of project water;

(iii) The Animas-La Plata Project Compact, section 37-64-101, C.R.S. (1973); and

(iv) The La Plata River Compact, section 37-64-101, C.R.S. (1973).

f. The final settlement of the Tribe's reserved water rights claims on the Animas and La Plata Rivers as described in this Agreement shall be subject to the following conditions:

(i) If Ridges Basin Reservoir, Long Hollow Tunnel, and the Dry Side Canal to the turnout to the Dry

Side Lateral are completed so as to enable the delivery of water to the Tribe as described in this subsection on or before January 1, 2000, then: (a) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Agreement shall become final; (b) the Tribe shall be entitled to the full project reserved water right as described in this subsection; and (c) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River.

(ii) If Ridges Basin Reservoir, Long Hollow Tunnel, and the Dry Side Canal to the turnout to the Dry Side Lateral are not completed so as to enable the delivery of water to the Tribe as described in this subsection by January 1, 2000, then by January 1, 2005, the Tribe, in consultation with the United States as trustee, must elect either: (a) to retain the project reserved water right; or (b) to commence litigation or renegotiation of its pending reserved water rights claims on the Animas and La Plata Rivers. If the Tribe, in consultation with the United States as trustee, has not elected to commence litigation or renegotiation of its pending claims on the Animas and La Plata Rivers by notification to the parties by January 1, 2005, as provided below, then: (a) the Tribe shall be deemed to have elected to retain its project reserved water right; (b) the settlement of the Tribe's pending reserved and appropriative

water rights claims on the Animas and La Plata Rivers contained in this Agreement shall become final; and (c) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River. If the Tribe elects to commence litigation or renegotiation of its pending reserved water rights claims on the Animas and La Plata Rivers then the Tribe shall relinquish and forfeit the project reserved water right from the Animas-La Plata Project as described in this subsection; provided, however, that if Ridges Basin Reservoir, Long Hollow Tunnel, and the Dry Side Canal to the turnout to the Dry Side Lateral are at any time thereafter completed so as to enable the delivery of water to the Tribe or if the Tribe elects at any time thereafter to receive an allocation of water from Ridges Basin Reservoir, then: (a) the Tribe shall be entitled to the full project reserved water right as described in this subsection; (b) the Tribe shall not be entitled to claim any other reserved water rights either on the Animas River or on the La Plata River; and (c) the Tribe shall relinquish any then pending reserved water rights claims or any benefits it may have obtained by litigating or renegotiating its reserved water rights claims on the Animas or La Plata Rivers, including all reserved water rights which may have been decreed. Notice of the Tribe's election shall be made as follows: to the United States, through the Secretary of the Interior and the Attorney General; to the

Tribes, through the respective Tribal Chairman; to the State, through the Attorney General; and to all other parties, through their respective offices.

g. Under no circumstances shall anything in this Agreement be construed as an admission, or be used by any party as evidence, that the Tribe is or is not legally entitled to reserved water rights on the Animas or La Plata Rivers. The project reserved water right shall have no precedential or presumptive value in the event the terms of this Agreement do not become final.

h. Repayment of that portion of the construction costs allocable to the Tribe's agricultural irrigation water allocation for which the Tribe is responsible shall be deferred pursuant to the Leavitt Act. Pursuant to the federal legislation required by Article VI, Section A, subsection 1.b, reimbursable OM&R costs allocable to the Tribe's agricultural irrigation water allocation shall be borne by the United States, subject to Congressional appropriations, until the water is used or temporarily disposed of by the Tribe. Pursuant to the federal legislation required by Article VI, Section A, subsection 1.b:

(a) repayment of the construction costs allocable to the Tribe's municipal and industrial water allocation shall be deferred, and interest thereon shall not accrue, until the water is used or temporarily disposed of by the Tribe; and (b) the reimbursable

OM&R costs allocable to the Tribe's municipal and industrial water allocation shall be borne by the United States, subject to Congressional appropriations, until the water is used or temporarily disposed of by the Tribe. As an increment of water is put either to municipal and industrial use or to agricultural irrigation use or temporarily disposed of by the Tribe, prospective repayment of that increment's pro rata share of the allocable costs shall commence. The OM&R costs allocable to the Tribe which are to be borne by the United States shall include any OM&R costs for which the Tribe is responsible pursuant to paragraph i. below, until water is used or temporarily disposed of by the Tribe under that paragraph.

i. If the Tribe does not take delivery of its Animas-La Plata Project allocations from the Ridges Basis Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal, even though those facilities have been constructed with the capacities contemplated by the DPR, then the Tribe shall: (a) continue to remain responsible for such portion of the OM&R costs of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal so as to ensure that all other project users bear no greater OM&R costs than would have otherwise been the case; and (b) ensure that deliveries to, and carriage losses of, all other project users are not adversely affected. On or before November 1, 1988, the Tribe may elect to have the United

States Bureau of Reclamation reduce the capacity of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal, and any associated delivery facilities, from the capacities contemplated by the DPR; provided that any additional capital costs to other water users occasioned by such election must be equitably apportioned. If such an election is made, then the Tribe shall: (a) be required to take delivery of its municipal and industrial water allocation and its agricultural irrigation water allocation at the Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes; (b) continue to remain responsible for such portion of the OM&R costs of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal as will ensure that all other project users bear no greater OM&R costs per acre-foot of water than would have been the case had the capacity of these facilities not been reduced; and (c) ensure that deliveries to, and carriage losses of, all other project users are not adversely affected. Whether or not the Tribe so elects, if water users other than the Ute Mountain Ute Indian Tribe do not take delivery of their project water through the Long Hollow Tunnel and the Dry Side Canal then there will not be an increase in the OM&R costs or a reduction in deliveries to the Tribe.

3. Other Sources

The Tribe shall receive:

a. A non-project reserved water right for direct flow diversions and/or storage of 21,000 acre-feet per annum from the Mancos River for the irrigation of 7,200 acres of Tribal lands within the Mancos River drainage basin. This right shall have an 1868 priority date, but shall be subordinated to all rights with an adjudication date prior to 1985. For measurement purposes, the delivery point for water under this right will be at the point where the Mancos River enters the Ute Mountain Ute Indian Reservation on the south line of section 2U, T34N, R18W, N.M.P.M., at a point below the confluence of the Mancos River and Weber Canyon. When water is put to use or temporarily disposed of by the Tribe, the Tribe agrees to operate and maintain a stream gauging station at this point and to allow the State Engineer access to this gauging station. Notwithstanding the provisions of Article IV, Section F of this Agreement, as long as the water is diverted south of the delivery point as surface flow and applied to beneficial use on Tribal lands within the Mancos River drainage, no change in place of use, as described in Article IV, Section F of this Agreement, shall be required.

b. A non-project reserved water right for direct flow diversions for 4,800 acre-feet per annum from the

Navajo Wash for the irrigation of 1,200 acres of Tribal lands within the Navajo Wash drainage basin at a maximum diversion rate of 15 cfs. This right shall have an 1868 priority date, but shall be subordinated to all rights with an adjudication date prior to 1985 and shall be subject to the decree and stipulation in Case No. 81 CW 126, Colorado District Court for Water Division No. 7. The Tribe's existing state appropriative water rights on Navajo Wash will be relinquished, upon confirmation by the Colorado District Court for Water Division No. 7 of the non-project reserved water right provided for in this paragraph.

c. A non-project reserved water right for direct flow diversions of 1600 acre-feet per annum from the main stem of the San Juan River within the southwestern part of the Ute Mountain Ute Indian Reservation in Colorado, for the irrigation of 640 acres of Tribal lands within the San Juan mainstem drainage basin at a maximum diversion rate of 10 cfs. This right shall have a priority date of 1868.

B. SOUTHERN UTE INDIAN TRIBE

The Southern Ute Indian Tribe shall be entitled to the rights described below to beneficially use water from the following sources:

1. Animas-La Plata Project

a. The Tribe shall receive a project reserved water right to water supplied from the Animas-La Plata Project. This right shall have an 1868 priority date, shall be subordinated to all water rights decreed and senior to the Animas-La Plata Project, and shall share on a pro rata basis the priority of the Animas-La Plata Project, which has an adjudication date of March 21, 1966, and an appropriation date of September 2, 1938, C.A. 1751-B, District Court, La Plata County, Colorado.

b. The project reserved water right shall entitle the Tribe to receive and beneficially use, on that part of the Southern Ute Reservation within the State or within the boundaries of the Animas-La Plata Water Conservancy District, the following allocations of water from the Animas-La Plata Project, as measured at Ridges Basin Dam and Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes:

(i) a maximum of 26,500 acre-feet per annum of municipal and industrial water; and

(ii) a maximum of 3,400 acre-feet per annum of agricultural irrigation water.

The project reserved water right shall not exceed the total of

the above allocations.

Pending completion of the Southern Ute Reservoir, the Tribe's municipal and industrial water allocation will be delivered to the Tribe at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or, for La Plata River water, at the point on the La Plata River where water is diverted for project purposes. The Tribe shall take monthly deliveries of its agricultural irrigation water allocation in the manner contemplated by the DPR; provided that the Tribe may take its agricultural irrigation water at its discretion so long as neither the project supply nor other project users are adversely affected.

c. During periods of water shortage, deliveries of project water, or deliveries of the supply of water available under the project priority, to the Tribe and to all others shall be as follows:

(i) the municipal and industrial water allocations as quantified in the DPR shall first be fully satisfied; and

(ii) the agricultural irrigation water allocations as quantified in the DPR shall share shortages on a pro rata basis even if changed to other beneficial uses.

The sharing of shortages in the project's water supply shall govern the actual amount of agricultural irrigation water delivered

to the Tribe whether or not the average supply of 3,300 acre-feet per annum as contemplated by the DPR is actually achieved.

d. In proceedings pursuant to Article IV, Section F, the computations concerning the Tribe's historic beneficial use of water shall be based upon:

(i) actual historic monthly deliveries of the available annual supply, measured at Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant, or, if there has not yet been full use of water, then the Tribe shall be deemed to have historically made beneficial use of any unused portion of each year's available water based upon the following monthly percentage distributions of the available water:

<u>Month</u>	<u>Agricultural Irrigation Water</u>	<u>M&I Water</u>
October	0%	8%
November	0	8
December	0	8
January	0	8
February	0	8
March	0	8
April	0	8
May	9	8
June	29	9
July	32	9
August	18	9
September	12	9
Totals	100%	100%

(ii) actual historic use or, if there

has not yet been full use of water, then the Tribe shall be deemed to have historically consumed 90.5 percent of the unused portion of the water available to the Tribe from its annual municipal and industrial water allocation and 78.8 percent of the unused portion of the water available to the Tribe from its annual agricultural irrigation water allocations; or

(iii) any agreement which may be entered into among the State, the Tribes, the Animas-La Plata Water Conservancy District and the United States Bureau of Reclamation which modifies (i) and (ii) above.

e. The project reserved water right shall always be consistent with:

(i) the allocations, shortage provisions, delivery schedules, and consumptive use calculations described in this section;

(ii) Bureau of Reclamation procedures, which shall include, among other things, NEPA compliance and assurance that all other project water users are not injured by any change in the use of project water;

(iii) The Animas-La Plata Project Compact, section 37-64-101, C.R.S. (1973); and

(iv) The La Plata River Compact, section 37-64-101, C.R.S. (1973).

f. The final settlement of the Tribe's

reserved water rights claims on the Animas and La Plata Rivers as described in this Agreement shall be subject to the following conditions:

(i) If Ridges Basin Reservoir and the facilities necessary for the delivery of the Tribe's agricultural irrigation water are completed so as to enable the delivery of water to the Tribe as described in this subsection on or before January 1, 2000, then: (a) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Agreement shall become final; (b) the Tribe shall be entitled to the full project reserved water right as described in this subsection; and (c) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River.

(ii) If Ridges Basin Reservoir and the facilities necessary for the delivery of the Tribe's agricultural irrigation water are not completed so as to enable the delivery of water to the Tribe as described in this subsection by January 1, 2000, then by January 1, 2005, the Tribe, in consultation with the United States as trustee, must elect either; (a) to retain the project reserved water right; or (b) to commence litigation or renegotiation of its reserved water rights claims on the Animas and La Plata Rivers. If the Tribe, in consultation with the United States as trustee, has not elected to commence litiga-

tion or renegotiation of its pending claims on the Animas and La Plata Rivers by notification to the parties by January 1, 2005, as provided below, then: (a) the Tribe shall be deemed to have elected to retain its project reserved water right; (b) the settlement of the Tribe's pending reserved and appropriative water rights claims on the Animas and La Plata Rivers contained in this Agreement shall become final; and (c) the Tribe shall not be entitled to claim any additional reserved water rights either on the Animas River or on the La Plata River. If the Tribe elects to commence litigation or renegotiation of its pending reserved water rights claims on the Animas and La Plata Rivers, then the Tribe shall relinquish and forfeit the project reserved water right from the Animas-La Plata Project as described in this subsection; provided, however that if Ridges Basin Reservoir and the facilities necessary for the delivery of the Tribe's irrigation water are at any time thereafter completed so as to enable the delivery of water to the Tribe or if the Tribe elects at any time thereafter to receive an allocation of water from Ridges Basin Reservoir, then: (a) the Tribe shall be entitled to the full project reserved water right as described in this subsection; (b) the Tribe shall not be entitled to claim any other reserved water rights either on the Animas River or on the La Plata River; and (c) the Tribe shall relinquish any then pending reserved water rights claims or any benefits it may have obtained by litigating

or renegotiating its reserved water rights claims on the Animas or La Plata Rivers, including all reserved water rights which may have been decreed. Notice of the Tribe's election shall be made as follows: to the United States, through the Secretary of the Interior and the Attorney General; to the Tribes, through the respective Tribal Chairman; to the State, through the Attorney General; and to all other parties, through their respective offices.

g. Under no circumstances shall anything in this Agreement be construed as an admission, or be used by any party as evidence, that the Tribe is or is not legally entitled to reserved water rights on the Animas or La Plata Rivers. The project reserved water right shall have no precedential or presumptive value in the event the terms of this Agreement do not become final.

h. Repayment of that portion of the construction costs allocable to the Tribe's agricultural irrigation water allocation for which the Tribe is responsible shall be deferred pursuant to the Leavitt Act. Pursuant to the federal legislation required by Article VI, Section A, subsection 1.b, reimbursable OM&R costs allocable to the Tribe's agricultural irrigation water allocation shall be borne by the United States, subject to Congressional appropriations, until the water is used or temporarily disposed of by the Tribe. Pursuant to the federal

legislation required by Article VI, Section A, subsection 1.b: (a) repayment of the construction costs allocable to the Tribe's municipal and industrial water allocation shall be deferred, and interest thereon shall not accrue, until the water is used or temporarily disposed of by the Tribe; and (b) the reimbursable OM&R costs allocable to the Tribe's municipal and industrial water allocation shall be borne by the United States, subject to Congressional appropriations, until the water is used or temporarily disposed of by the Tribe. As an increment of water is put either to municipal and industrial use or to agricultural irrigation use or temporarily disposed of by the Tribe, prospective repayment of that increment's pro rata share of the allocable costs shall commence. The OM&R costs allocable to the Tribe which are to be borne by the United States shall include any OM&R costs for which the Tribe is responsible pursuant to paragraph i. below, until the water is used or temporarily disposed of by the Tribe under that paragraph.

i. If the Tribe does not take delivery of its Animas-La Plata Project allocations from the Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal, even though those facilities have been constructed with the capacities contemplated by the DPR, then the Tribe shall: (a) continue to remain responsible for such portion of the OM&R costs of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the

Dry Side Canal so as to ensure that all other project users bear no greater OM&R costs than would have otherwise been the case; and (b) ensure that deliveries to, and carriage losses of, all other project users are not adversely affected. On or before November 1, 1988, the Tribe may elect to have the United States Bureau of Reclamation reduce the capacity of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal, and any associated delivery facilities, from the capacities contemplated by the DPR; provided that any additional capital costs to other water users occasioned by such election must be equitably apportioned. If such an election is made, then the Tribe shall: (a) be required to take delivery of its municipal and industrial water allocation and its agricultural irrigation water allocation at the Ridges Basin Reservoir or at the point on the Animas River where diversions are made to the Durango Pumping Plant; (b) continue to remain responsible for such portion of the OM&R costs of the Ridges Basin Pumping Plant, the Long Hollow Tunnel and the Dry Side Canal as will ensure that all other project users bear no greater OM&R costs per acre-foot of water than would have been the case had the capacity of these facilities not been reduced; and (c) ensure that deliveries to, and carriage losses of, all other project users are not adversely affected. Whether or not the Tribe so elects, if water users other than the Southern Ute Indian Tribe do not take delivery of their project water though

the Long Hollow Tunnel and the Dry Side Canal then there will not be an increase in the OM&R costs or a reduction in deliveries to the Tribe.

2. Pine River

The Tribe shall be entitled to retain its reserved water right from the Pine River with an 1868 priority date for 181.7 cfs, as set forth in the 1930 federal decree and the 1934 state decree, except as modified herein, and shall be entitled to a 1/6 interest in the Vallecito Reservoir, Reservoir No. 1, Appropriation Priority No. 1965-1, decreed in Civil Action No. 1848-B, La Plata County.

3. Other Sources

The Tribe shall be entitled to the rights to beneficially use water as quantified below, unless otherwise specified: (1) for agricultural irrigation purposes; (2) during an irrigation season of May 1 to September 30; (3) at the locations specified on the Tribal maps provided to the State of Colorado on December 5, 1985; and (4) on Tribal lands. Points of diversion will be identified by stream reach on maps to be attached to the consent decree provided for in Article VI, Section A of this Agreement.

All parcel numbers used in the following descriptions refer

to the numbers shown on the December 5, 1985, Tribal maps. Copies of these Tribal maps will be attached to and incorporated in the proposed stipulation and consent decree submitted to the Colorado District Court for Water Division No. 7 pursuant to the procedure described in Article VI, Section A.

a. Florida River

(i) The Tribe agrees to accept Florida Project water stored behind Lemon Dam in exchange for and in lieu of its reserved water rights claims for the lands within parcels 1, 2, 3 and 15. The Florida Water Conservancy District agrees to allocate 563 acre-feet per annum of project waters to the Tribe for these four parcels. The Tribe will be responsible for paying operation and maintenance charges assessed uniformly by the Florida Water Conservancy District on the Florida Project water. Repayment of that portion of the construction costs of the project which have been allocated to the 563 acre-feet of agricultural irrigation water for which the Tribe is responsible shall be deferred by the Secretary pursuant to the Leavitt Act and the Florida Water Conservancy District's current repayment obligation shall not change.

It is understood that the full project supply may not be available in times of shortage, and that the Tribe will share the reduced supply pro rata with the other project users. The Tribe

will take its water subject to state water law, the District's repayment contract with the United States Bureau of Reclamation, and any of the ditch company's or the Florida Water Conservancy District's rules or guidelines.

The water may be used on parcels 1, 2, 3 and 15 as follows:

Parcel 1:

A maximum of 134 net acres are to be irrigated with this water, with a duty of water of 2 acre-feet per acre per year, for a maximum of 268 acre-feet per year. The flow rate of delivery is to be limited to 1 cfs per 80 acres, for a maximum of 1.68 cfs.

Parcel 2:

A maximum of 97 net acres are to be irrigated with this water, with a duty of water of 2 acre-feet per acre per year, for a maximum of 194 acre-feet per year. The flow rate of delivery is to be limited to 1 cfs per 80 acres, for a maximum of 1.21 cfs.

Parcel 3:

A maximum of 36.1 net acres are to be irrigated with a duty of water of 2.54 acre-feet per acre per year, for a maximum of 91.7 acre-feet per year. The flow rate of delivery is to be limited to 1 cfs per 80 acres, for a maximum of 0.45 cfs.

Parcel 15:

A maximum of 2.7 net acres are to be irrigated with a duty of water of 2.54 acre-feet per acre per year, for a maximum of 6.85 acre-feet per year. The flow rate of delivery is to be limited to 1 cfs per 80 acres, for a maximum of .04 cfs.

Diversions for parcels 1 and 2 will be made at the Florida Farmers Ditch headgate. It will be the responsibility of the various Florida ditch companies serving Florida mesa lands to improve their delivery systems in order that the water requested for parcels 1 and 2 under the above subparagraphs can be delivered to the edge of the parcels at no cost to the Tribe for such improvements. There is no delivery agreement for water to parcels 3 and 15.

The Tribe agrees to execute contract(s) simultaneously with submission of the proposed stipulation described in Article VI, section A, with the Florida Water Conservancy District and the United States Bureau of Reclamation governing its participation in the Florida Project, as described herein, as well as to execute contracts governing its receipt of the 2000 acre-feet of water previously allocated to the Tribe from the Florida Project.

(ii) The Tribe shall receive non-project reserved water rights for parcels 4, 5, 6, 9, 10, 11, 12, 13, and 14 as shown in Table 1. Water for these parcels shall have a

priority date of 1868 but shall be subordinated to all rights with an adjudication date prior to January 1, 1976.

TABLE 1
Parcels
in the Florida Basin

<u>Parcel</u>	<u>Net Acreage</u>	<u>Diversion Rate (cfs)</u>	<u>Annual Volume (acre-feet)</u>
4	103	1.29	206
5	86	1.08	172
6	21	0.26	42
9	38	0.48	76
10	29	0.36	58
11	25	0.31	50
12	105	1.31	210
13	57	0.71	114
14	81	1.01	162
TOTAL	<u>545</u>	<u>6.81</u>	1090

(iii) No water rights are recognized for parcels 7 and 8.

b. Stollsteimer Creek

The Tribe shall receive the following non-project reserved water rights, which will be used to irrigate 600 acres, which are within the 781 acres of arable land within the watershed identified on the Tribal maps:

(i) A non-project reserved water right with an 1868 priority date for storage of 1850 acre-feet per annum in Pargin Reservoir, Reservoir No. 24 (a/k/a Lake Capote),

with no refill right.

(ii) A non-project reserved water right with a 1986 priority date for one refill of Pargin Reservoir in the amount of 1,850 acre-feet. The Tribe owns an existing state storage reservoir right for 530.6 acre-feet of water in Pargin Reservoir, adjudicated on April 19, 1962 in Archuleta County District Court, with priority No. 24 in Case Nos. 73 and 308. The right will be relinquished upon confirmation by the Colorado District Court for Water Division No. 7 of the reserved rights described in this subparagraph and in subparagraph (i) above.

(iii) A non-project reserved water right for 2 cfs from Stollsteimer Creek. This right shall have a priority and use equivalent to, and be diverted and used at the same locations and for the same purposes as, the Cruther Ditch state appropriative right, adjudicated on November 13, 1912 in Archuleta County District Court, with priority No. 117 in Civil Action 73 and 308; however, this right shall be subordinated to all direct flow rights with an adjudication date prior to 1986 on Stollsteimer Creek. The Cruther Ditch state appropriative right shall not be considered to have been abandoned, but shall be relinquished upon confirmation by the Colorado District Court for Water Division No. 7 of the reserved water right described in this paragraph.

(iv) A non-project reserved water right

for 3.5 cfs from Stollsteimer Creek. This right shall have a priority and use equivalent to, and be diverted and used at the same locations and for the same purposes as, the Washington Flats Ditch state appropriative right adjudicated on June 25, 1928, in Archuleta County District Court, with priority No. 206 in Case No. 73 and 308. The Washington Flats Ditch state appropriative right shall be relinquished upon confirmation by the Colorado District Court for Water Division No. 7 of the reserved water right described in this paragraph.

The augmentation plan developed by Fairfield-Pagosa, as described in Case No. W958-72, Water Division No. 7, subordinates 8.5 cfs of the Linn and Clark water right to other Stollsteimer Creek state appropriative water rights, including the Washington Flats Ditch. The subordination of the Linn and Clark water right shall be maintained for the benefit of the Washington Flats Ditch direct-flow reserved water right in the event the present augmentation plan described in W958-72 is modified.

c. Piedra River

The Tribe shall receive a non-project reserved water right with an 1868 priority date for direct flow diversions of 1595 acre-feet per annum from the mainstem of the Piedra River for the irrigation of 535 net acres of land at a maximum flow rate of 1 cfs per 60 acres, for a maximum diversion rate of 8.9 cfs. A

portion of the water for parcel 4 will be diverted through the existing M.E. and M. Ditch. The parcels and acreages are as set out in the following Table 2. Lands requiring pumping shall have a duty of water of 2.54 acre-feet/acre, while lands proposed to be flood-irrigated shall have a duty of water of 3.0 acre-feet/acre.

TABLE 2

Parcels
along the Mainstem Piedra River

<u>Parcel</u>	<u>Net Acreage</u>	<u>Diversion Rate (cfs)</u>	<u>Annual Volume (acre-feet)</u>
1	289	4.81	867
2	40	0.67	110 (21.9 acres pumped)
3	162	2.69	486
4	44	0.73	132
TOTAL	<u>535</u>	<u>8.90</u>	<u>1595</u>

d. Devil Creek

The Tribe shall receive a non-project reserved water right with an 1868 priority date subordinated to all rights with an adjudication date prior to 1976 for direct flow diversions of 183 acre-feet per annum from Devil Creek for the irrigation of 61 net acres of land. The duty of water shall be 3 acre-feet/acre.

e. San Juan River

The Tribe shall receive a non-project reserved water right with an 1868 priority date for direct flow diversion of 1530 acre-feet per annum from the San Juan River for the irrigation of 510 net acres of land at a maximum flow rate of 1 cfs per 60 acres, for a maximum total diversion rate of 8.5 cfs, which will be limited to 4 cfs in September.

The Tribe is currently using a portion of the 1962 Carr Ditch right, 73CA309, a right owned by a non-Indian and shared with other non-Indian users, to irrigate these lands. The Tribe agrees to make the necessary modifications of, and reductions to, the existing Carr Ditch right in the amount of approximately 480 acre-feet per annum of water and to relinquish all claim to water taken from the Carr Ditch and used to irrigate approximately 140 acres of Tribal land, in the Colorado District Court for Water Division No. 7. The State agrees to support the Tribe in its efforts.

The duty of water shall be 2.54 acre-feet per acre for lands requiring pumping, and 3.0 acre-feet per acre for lands proposed to be flood irrigated. The parcels and acreage are as set out in the following Table 3.

TABLE 3

<u>Parcel</u>	<u>Net Acreage</u>	<u>Diversion Rate (cfs)</u>	<u>Annual Volume (acre-feet)</u>
1	23	0.38	69
2	29	0.48	87
3	120	2.00	360
4	338	5.64	1014 (86.4 acres pumped)
TOTAL	<u>510</u>	<u>8.50</u>	<u>1530</u>

f. Round Meadow Creek

The Tribe shall receive a non-project reserved water right with an 1868 priority date for direct flow diversions of 975 acre-feet per annum from Round Meadow Creek for the irrigation of 325 net acres of land at a maximum flow rate of 1 cfs per 60 acres for a maximum total diversion rate of 5.4 cfs. The duty of water shall be 3 acre-feet/acre. The diversion point shall be on Round Meadow Creek.

g. Cat Creek

The Tribe shall receive a non-project reserved water right with an 1868 priority date for direct flow diversions of 1372 acre-feet per annum from Cat Creek for the irrigation of 482 net acres of land, at a maximum flow rate of 1 cfs per 60 acres, for a maximum total diversion rate of 8.0 cfs. The duty of water shall be 3 acre-feet/acre for the 318 acres proposed to be

flood-irrigated, and 2.54 acre-feet/acre for the 164 acres which require pumping.

h. Navajo River

No reserved water rights are recognized for the Navajo River.

C. FURTHER QUANTIFICATION

1. Existing Uses

a. Any existing beneficial use of surface water or ground water for which the Tribes claim a reserved water right, other than those provided for in this Article and other than existing uses of water from the Pine River, shall be identified and inventoried as to location, quantity, use, and other reasonably necessary information by June 15, 1987, or such other date upon which the State, the Tribes, and the United States shall mutually agree.

b. All parties to this Agreement will have the right to review the resulting inventory, including the parameters of the uses identified, which shall be subject to the mutual agreement of the parties. The parties shall not unreasonably withhold their agreement.

c. Uses identified and agreed upon shall be included in the proposed stipulation for inclusion in the consent decree and submitted to the Colorado District Court for Water Division No. 7 by the parties as additions to the reserved water rights awarded to the Tribes pursuant to this Agreement.

2. Future Domestic and Livestock Tributary Ground Water Uses

a. A non-project reserved water right for the beneficial use of tributary ground water with an 1868 priority date from future individual domestic and livestock wells on the Ute Mountain Ute Reservation shall be recognized in the amount of 350 acre-feet per annum in the McElmo Creek drainage basin and water tributary thereto and 1,500 acre-feet per annum in the remainder of the Reservation.

b. A non-project reserved water right with an 1868 priority date for the beneficial use of tributary ground water from future individual domestic and livestock wells on the Southern Ute Reservation shall be recognized in the amount of 2,000 acre-feet per annum; provided that in the La Plata River drainage such individual domestic and livestock wells shall be limited as follows:

(i) the well will be the only well on a residential site and shall be used solely for in-household pur-

poses for one single-family dwelling; or

(ii) the well will be the only well on a 35 acre site, shall not exceed 15 gallons per minute of production, and shall be used for ordinary household purposes, fire protection, the watering of poultry, domestic animals, and livestock on farms and ranches, the irrigation of not over one acre of home gardens and lawns, and for not more than three single-family dwellings.

This provision will not preclude the United States, the Tribe and the State from agreeing on an alternative allocation plan prior to June 15, 1987 or such other date upon which the State, the Tribes and the United States shall mutually agree.

c. The further parameters of the future individual domestic and livestock water uses, which may include place of use, diversion and depletion amounts, and metering and gauging requirements, shall be identified by the Tribes by June 15, 1987, or such other date upon which the State, the Tribes and the United States shall mutually agree, and shall be subject to the reasonable mutual agreement of the State and the affected Tribe.

D. DISPUTES

The parties shall present to the Colorado District Court for Water Division No. 7 all disputes over whether water is being

beneficially used in accordance with Article III of this Agreement.

IV. ADMINISTRATION

A. INTRODUCTION

The State, the Tribes, and the United States acknowledge the hydrologic relationship between surface and underground use of water and among the Tribes' project and non-project reserved water rights, the water rights used by non-Indians within Colorado, and the waters used outside the State. Accordingly, the parties recognize the need for a cooperative and coordinated administration of water rights arising under state law and the project and non-project reserved water rights secured to the Tribes by this Agreement, and intend to provide for such administration with this Article IV. The purpose of this Article is to establish the means by which the project and non-project water rights confirmed in Article III shall be administered. Administration by the State Engineer shall ensure that the water rights of all users, including the Tribes, are fully protected. The Tribes agree to coordinate their administrative responsibilities under this Agreement with the Secretary when those administrative responsibilities affect the water rights of allottees. The Tribes agree to allow the State Engineer access to Reservation

lands solely for the purpose of performing his administrative duties under this Agreement.

B. SURFACE DIVERSIONS

The State Engineer, in a manner consistent with the agreements contained herein, shall have primary administrative responsibility over all waters apportioned to the Tribes at the points of diversion located on each river. The Tribes shall have primary administrative responsibility over all the waters within the Tribes' canal distribution systems.

When water is put to use under this Agreement, the Tribes agree to install and maintain headgates on the diversion points from the rivers and to install and maintain necessary totalizing or accumulating meters, gauges, or other measuring devices on these headgates, to inspect the recorders on a weekly basis, and to report to the State Engineer the reading of these meters as often as needed to ensure compliance with this Agreement. The Tribes agree to allow reasonable inspection of headgates by the State Engineer upon request. The Tribes further agree to keep their diversion, transportation, and storage facilities in good repair.

The Tribes agree to annually provide the State Engineer with: (1) aerial photos or remote sensing images of the lands irrigated; or (2) Bureau of Indian Affairs Crop Reports, showing

the lands irrigated. If these aerial photos, remote sensing images, or crop reports are unsatisfactory, the Tribes agree to allow the State Engineer access to Tribal lands to inventory the number and location of irrigated acres. The Tribes may elect to allow the State Engineer to conduct an annual examination of the irrigated lands so that the State Engineer can inventory the number and location of irrigated acres in substitution for the images and reports. At least once in every five-year period the Tribes shall provide the State Engineer with aerial photos or remote sensing images, satisfactory to the State Engineer, or shall allow the State Engineer access to Tribal lands to inventory the location and number of irrigated acres.

The Tribes agree that when there is an administrative call on the waters of the rivers and a demonstrated likelihood of shortage exists, the Tribes will permit the State Engineer to monitor the Tribes' diversions of water within the priority system to ensure that the waters are being beneficially used in compliance with the terms of this Agreement.

The parties shall present to the Colorado District Court for Water Division No. 7 all disputes over whether waters are being used in accordance with the terms of this section, provided that disputes involving solely Tribal members or lessees of the Tribes over the use of water within the Tribes' canal distribution system may be resolved in a Tribal forum.

Notwithstanding anything in this section to the contrary, the Tribes' responsibilities for the maintenance and repair of United States Bureau of Reclamation Project facilities and reporting obligations for project waters shall remain identical to that of other project water users.

Nothing in this section shall commit or obligate the United States to expend funds which have not been appropriated and budgeted. Nothing in this section shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

C. DAMS AND RESERVOIR SAFETY

The Tribes agree to construct, maintain and operate existing or future storage reservoirs, together with inlet, outlet, and spillway structures or other necessary water works facilities in a manner which will protect downstream persons and property. The Tribes agree to inspect such dams using qualified, experienced personnel as often as appropriate for the protection of public health and safety and agree to allow state inspection of the dam and storage reservoirs for the purpose of ensuring public health and safety. The Tribes agree to cooperate with the State Engineer to ensure that dams and reservoirs remain safe and do not endanger public health and safety. In the event either finds that a dam or reservoir is unsafe and presents an immediate dan-

ger to public health and safety, the Tribes and the State Engineer agree to cooperate and to take all necessary actions to prevent the danger to public health and safety and to render the structure safe. Disputes over conditions of such reservoirs and the need for other remedial actions shall be decided by a court of competent jurisdiction.

Nothing in this provision shall be construed to alter the federal dam safety program.

Nothing in this section shall commit or obligate the United States to expend funds which have not been appropriated and budgeted. Nothing in this section shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

D. INDIVIDUAL DOMESTIC AND LIVESTOCK WELLS

The Tribes agree to provide the State Engineer with the following information in a Tribal permit 30 days before the Tribes intend to permit the drilling of a well for individual domestic or livestock purposes as set forth in Article III, Section C, subsection 2: the aquifer or, if the aquifer is unknown, the depth from which the water is proposed to be withdrawn, the location of the proposed well, the name of the owner of the land on which the well will be located, the estimated average annual amount of water applied for in acre-feet, and the

estimated maximum pumping rate in gallons per minute. Thirty (30) days after the receipt of a Tribal permit to drill a well, the State shall issue well permits for individual domestic and livestock wells with the parameters and up to the amounts specified in Article III, Section C, subsection 2.

The parties shall present to the Colorado District Court for Water Division No. 7 all disputes arising under this section.

Nothing in this section shall commit or obligate the United States to expend funds which have not been appropriated and budgeted. Nothing in this section shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

E. AQUIFER PROTECTION AND WATER WELL AND PUMP INSTALLATION

The Tribes agree to drill, maintain, and/or abandon wells in a manner consistent with public health and safety and applicable laws or regulations. Well completion reports and well drilling logs shall be completed and filed with the State Engineer within 30 days of completion of the well.

Disputes arising under this section shall be decided by a court of competent jurisdiction.

Nothing in this section shall commit or obligate the United States to expend funds which have not been appropriated and bud-

geted. Nothing in this section shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

F. CHANGE OF RESERVED WATER RIGHT

1. Change of Non-project Reserved Water Rights

The Tribes may change their non-project reserved water rights from the types of use, places of use, amounts, times of use or location of points of diversion set forth in Article III, Section A, subsection 3 and Article III, Section B, subsection 3 of this Agreement. No change shall be allowed unless the Tribes and the United States first file an application for a change of water rights in the Colorado District Court for Water Division No. 7 and the court grants such change. Changes of water rights may be to any beneficial use.

A change of water right shall be granted by the district court if the change does not increase the Tribe's consumptive use or injure other water rights. In determining the consumptive use of Tribal water rights and injury to other water rights for the change of a water right within the boundaries of a reservation or from within the boundaries to outside the boundaries of a reservation, the Tribes shall be deemed, notwithstanding the provisions of Article V, Section B, a., to have historically diverted

and beneficially used their water in the full amounts, in the manner and for the purposes set forth in Article III, Section A, subsection 3 and Article III, Section B, subsection 3. For subsequent changes of water rights, once a water right has been changed from within the boundaries to outside the boundaries of a reservation, consumptive use shall be determined based upon actual historic use.

The Tribes and the United States further agree that for a change of a surface diversion of agricultural irrigation water to a ground water diversion, they will provide the State Engineer with a Tribal permit containing the following information before the Tribes file an application for a change of water right in Colorado District Court for Water Division No. 7: the aquifer or, if the aquifer is unknown, depth from which the water is proposed to be withdrawn, the location of the proposed well, the name of the owner of the land on which the well will be located, the estimated average annual amount of water applied for in acre-feet, the estimated maximum pumping rate in gallons per minute, the proposed use, and a description of the land proposed to be irrigated or the use to which the water will be put and the location of that use. Within thirty (30) days after receipt of a Tribal permit to drill a well, the State Engineer shall issue a well permit for the proposed well if the change does not increase the Tribe's consumptive use or injure other water users. In

determining the consumptive use of water and injury to other water users, the Tribes shall be deemed to have diverted and beneficially used their water in the full amounts, and manner, and for the purposes contemplated by this Agreement.

For changes of water rights which contemplate that the water rights defined herein or water under those rights may be used outside the boundaries of the Reservations, the parties shall be bound by Article V, Section B.

The parties shall present to the Colorado District Court for Water Division No. 7 all disputes arising under this section.

Nothing in this section shall commit or obligate the United States to expend funds which have not been appropriated and budgeted. Nothing in this section shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

2. Change of Project Reserved Water Rights

The Tribes and the United States may change their project reserved water rights from the types of use, places of use, amounts, times of use or location of points of diversion set forth in Article III, Section A, subsections 1 and 2 and Article III, Section B, subsection 1 of this Agreement. No change shall be allowed unless the Tribes and the United States file, to the same extent other project water users are required to file, an

application for a change of water rights in the Colorado District Court for Water Division No. 7 and the court grants such change. Changes of water rights may be to any beneficial use.

The change of water right shall be granted by the district court if the change does not increase the Tribe's consumptive use or injure other water rights. In determining the consumptive use of project reserved water rights and injury to other water rights, the provisions of Article III, Section A, subsection 1.d. and 2.d. and Article III, Section B, subsection 1.d shall govern, notwithstanding the provisions of Article V, Section B, a.

For changes of water rights which contemplate that the water rights defined herein or water under those rights may be used outside the boundaries of the Reservations, the parties shall be bound by Article V, Section B.

The parties shall present to the Colorado District Court for Water Division No. 7 all disputes arising under this section.

Nothing in this section shall commit or obligate the United States to expend funds which have not been appropriated and budgeted. Nothing in this section shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

G. STATE ADJUDICATED WATER RIGHTS

The parties acknowledge that the administrative provisions

of this Article govern the Tribes' use of the project and non-project reserved water rights recognized herein, but that any and all other waters appropriated by the Tribes pursuant to the state adjudication or permitting process will be decreed, administered and regulated by the State pursuant to existing state law.

The State shall administer all rights to the use of surface or ground water within or outside the Reservation which are not a part of the Tribes' reserved water rights. The District Court for Water Division No. 7 shall have exclusive jurisdiction to resolve all disputes over uses of nonreserved water rights established under state law.

V. LEASING AND OFF-RESERVATION USE

A. LEASING

Pursuant to the legislation required by Article VI, Section A, subsections 1.a. and 1.c of this Agreement, the Tribes may, subject to the Federal legislation required by Article VI, Section A, subsection 1.b. of this Agreement, sell, exchange, lease, or otherwise temporarily dispose of their water within or, subject to Section B below, outside the boundaries of the Reservations.

B. WATER USE OUTSIDE THE BOUNDARIES OF THE RESERVATIONS

Solely as a compromise for the purposes of this settlement, the parties agree that the Tribes may, under this Agreement, use the project and non-project reserved water rights secured to the Tribes by this Agreement outside the boundaries of their reservations:

a. within the State subject only to the same requirements and conditions of:

- (i) State law;
- (ii) Federal law, excluding the doctrine of Indian reserved water rights and Federal reclamation law; and
- (iii) interstate compacts

as apply to the exercise of water rights held by non-federal, non-Indian entities and

b. outside the State to the extent permitted by any:

- (i) State law;
- (ii) Federal law;
- (iii) interstate compact; or
- (iv) international treaty

that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation or quality of those waters; provided, however, that nothing in this Agreement shall be con-

strued to establish, address, or prejudice whether, or the extent to which, or to prevent any party from litigating whether, or the extent to which, any of the aforementioned laws do or do not permit, govern or apply to the use of the Tribes' water outside the State.

VI. FINALITY OF SETTLEMENT

A. JUDICIAL APPROVAL

On or before August 31, 1987, or such other date upon which the State, the Tribes and the United States shall mutually agree, the parties shall present to the Colorado District Court for Water Division No. 7 a proposed stipulation reflecting the terms of this Agreement, which shall not be implemented until the entry of the Final Consent Decree.

Nothing in this final agreement or consent decree shall be construed as an enlargement of the subject matter jurisdiction of the District Court for Water Division No. 7. Article IV Section C, Article VI Sections A.1, A.2, and B, and Article VII Section G shall be excluded from the proposed stipulation to be presented to the District Court for Water Division No. 7; provided that any waiver of tribal water right claims contained within Article VI Section A.1.e. shall be included in such proposed stipulation. Such exclusion shall not delete or alter the terms or the effect

of the excluded sections of the Agreement.

Upon the submission of such proposed stipulation the parties shall request the Court to give appropriate notice and hold the necessary hearings to consider and rule upon any objections to the proposed stipulation submitted. Upon the entry of a Final Consent Decree as provided below reflecting the proposed stipulation, the Tribes, and the United States as trustee for the Tribes, shall waive any and all claims to water rights within the State of Colorado not expressly identified in the Final Consent Decree, established by existing state or federal court decree, or otherwise recognized under state law, including any and all claims to water rights or injury to water rights, for the benefit of the Tribes or any individual claiming the right to use water under the Tribes, from any source of surface water or waters tributary thereto, arising under any laws of the United States or of the State. The Final Consent Decree shall not be executed or become final until the State, the Tribes, and the United States jointly certify that the legislative enactments necessary to implement this Agreement, as enumerated below, have been obtained to their satisfaction.

Execution and entry of the Final Consent Decree shall be contingent upon the enactment of the legislation described below.

1. Congressional Legislation

Required enactment by the Congress shall consist of legislation that:

a. provides relief from the prohibition of 25 U.S.C. 177;

b. provides that:

(i) the repayment of the construction costs allocable to the Tribes' municipal and industrial water allocation from the Dolores and Animas-La Plata Projects shall be deferred, and interest thereon shall not accrue, until the water is used;

(ii) the United States is authorized to bear the reimbursable OM&R costs allocable to the Tribes' municipal and industrial water allocation from the Dolores and Animas-La Plata Projects until the water is used; and

(iii) the United States is authorized to bear the reimbursable OM&R costs allocable to the Tribes' agricultural irrigation water allocation from the Animas-La Plata Project until the water is used.

As an increment of water is leased or otherwise used, prospective repayment of that increment's pro rata share of the allocable costs shall commence.

c. assures that the Tribes and their lessees are not restricted by application of federal reclamation laws

from using, selling, exchanging, leasing or otherwise temporarily disposing of their water;

d. authorizes and appropriates the federal share of the \$60.5 million Tribal Development Fund provided for in Article VI, Section B below;

e. provides that performance by the United States of the actions required by the aforementioned legislative provisions will be conditioned on the Tribes executing waivers and releases of all claims concerning water rights whether in rem or against any party to this Agreement other than those which may arise under the terms of this Agreement;

provided that the waivers of such claims, if any, relative to the Animas and La Plata Rivers shall not be effective until Phase I of the Animas-La Plata Project as defined in the June 30, 1986 Binding Agreement for Animas-La Plata Project Cost-Sharing, is complete or the Tribes elect to retain their project reserved water rights as described in Article III, Section A, subsection 2.f(ii) or Article III, Section B, subsection 1.f(ii); except that waivers of such claims, if any, for monetary damages against the State shall be effective as soon as the State appropriates and disburses the funds described in Article VI, Section A, subsection 2;

provided further that the waivers of such claims relative to the Mancos River shall not be effective until

the combined Highline-Towaoc Canal is completed so as to enable the delivery of water to the Ute Mountain Ute Indian Reservation, or the Ute Mountain Ute Tribe elects to exercise the project reserved water right by taking the Tribe's allocation of water directly from McPhee Reservoir; except that waivers of such claims, if any, for monetary damages against the State shall be effective as soon as the State appropriates the funds described in Article VI, Section A, subsection 2;

provided further that in the event that either Tribe obtains a judgment for monetary damages against the United States, the State, or any other parties, the United States or the State or the affected party shall be entitled to apply as an offset against the judgment the money actually provided by that party to the Tribe as Tribal Development Funds and any interest or any other moneys generated by this fund under this Agreement and its implementing legislation;

provided further that nothing in this paragraph e. shall be deemed to create or give validity to any claim by the Tribes against the United States, the State, or any other parties to this settlement, or in any way constitute an acknowledgment of the validity of any claims by the Tribes against the United States, the State, or any other party to the settlement;

provided further that neither Tribe may assert any claim against the United States, the State or any other party

arising out of:

- (i) the negotiation of this Agreement;
- (ii) the adoption of the specific terms

of this Agreement; or

(iii) allegations concerning the lack of authority of either Tribe or the other parties to enter into this Agreement.

f. authorizes the Tribes, to waive the claims referred to in the preceding paragraph; and

g. provides that, in exercising his authority to administer water rights on the Reservations, the Secretary, on behalf of the United States, is authorized and directed to comply with the administrative procedures governing the water rights confirmed in this Agreement to the extent provided in Article IV.

The parties contemplate that other enactments, as mutually agreed upon and needed but not enumerated herein, may be drafted by the parties and proposed to the Congress.

2. Colorado General Assembly Legislation

Required enactments by the Colorado General Assembly shall consist of legislation that:

a. authorizes and appropriates \$5 million to be deposited by the State to the Tribal Development Funds no

later than 30 days following the deposit of the first installment of federal monies to said Development Funds.

b. authorizes such amount as needed, estimated at \$6 million, to be expended by the State for construction of the Towaoc Pipeline and a domestic water distribution system for the Ute Mountain Ute Tribe as a credit to the Ute Mountain Ute Development Fund, with said construction to be initiated within 1 year of the execution of this Final Settlement Agreement, and completed within 1 year of the initiation of construction; and

c. authorizes and appropriates \$5.6 million to be provided by the State to the Secretary for Ridges Basin Dam on a schedule acceptable to the State and the Secretary beginning in the first year of construction of said dam.

B. TRIBAL DEVELOPMENT FUNDS

Tribal Development Funds shall be established for the Tribes, with \$20.0 million for the Southern Ute Indian Tribe and \$40.5 million for the Ute Mountain Ute Indian Tribe, said funds to be created as follows:

1. \$5.0 million to be deposited by the State, contingent upon appropriation by the Colorado General Assembly, to the Tribal Development Funds no later than 30 days following the deposit of the first installment of Federal monies to said Devel-

opment Funds.

2. Such amount as needed, estimated at \$6.0 million, to be expended by the State for construction of the Towaoc Pipeline and a domestic water distribution system for the Ute Mountain Ute Indian Tribe as a credit to the Ute Mountain Ute Development Fund. Said construction will be initiated within one year of the execution of this Agreement, and shall be completed within one year of the initiation of construction.

3. \$49.5 million to be provided by the Secretary, contingent upon appropriations, to the Tribal Development Funds in three annual installments beginning in the first year for which the Congress of the United States appropriates such monies, as follows: \$19.5 million in year 1; \$15 million in year 2; and \$15 million in year 3. The Secretary will annually deposit any appropriated monies to the Development Funds within 30 days following the availability of such annual appropriation by the Congress to the Secretary.

4. The Tribal Development Funds shall be allocated between the Tribes as provided for in the following table.

Development Fund Allocations

(Millions of Dollars)

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Total</u>
<u>Ute Mtn Ute</u>				
Federal	12.0	10	10	32.0
State	2.5	-	-	2.5
Towaoc				
Pipeline	6.0	-	-	6.0
Subtotal	<u>20.5</u>	<u>10</u>	<u>10</u>	<u>40.5</u>
<u>Southern Ute</u>				
Federal	7.5	5	5	17.5
State	2.5	-	-	2.5
Subtotal	<u>10.0</u>	<u>5</u>	<u>5</u>	<u>20.0</u>
TOTAL	30.5	15	15	60.5

C. REMEDIES IN THE EVENT CONTINGENCIES ARE NOT MET

1. Confirmation by the Colorado District Court for Water Division No. 7.

In the event that the Colorado District Court for Water Division No. 7 fails to recognize the water rights described in Article III of this Agreement, or otherwise departs in any material way from implementing the substance of the proposed stipulation, either Tribe or the United States shall have the opportunity to void this Agreement in its entirety upon 60 days' notice to the Attorney General of the State. On the same grounds the Colorado Attorney General may void the Agreement upon 60 days' notice to the United States Attorney General and the chair-

men of both Tribes. On the same grounds other parties materially and adversely affected by a change in the substance of the decree entered by the court shall have the opportunity to void this Agreement insofar as this Agreement affects their interest, upon 60 days notice to the State, the Tribes and the United States.

Notice shall be made as follows: To the United States, through the Secretary of the Interior and the Attorney General; to the Tribes, through the respective Tribal Chairmen; to the State, through the Attorney General; to all other parties, through their respective offices.

2. Enactment of Necessary Legislation

In the event necessary legislation, or any part thereof, is not enacted by the end of the 100th Congress, or such other date upon which the parties shall mutually agree, the United States, either Tribe or the State shall have the right to void this Agreement in its entirety upon 60 days' notice. On the same grounds other parties materially and adversely affected by a change in the substance of the necessary legislation shall have the opportunity to void this Agreement insofar as this Agreement affects their interest, upon 60 days notice to the State, the Tribes, the United States and all other parties. Notice shall be made as follows: To the United States, through the Secretary of the Interior and the Attorney General; to the Tribes, through the

respective Tribal Chairmen; to the State, through the Attorney General; to all other parties, through their respective offices.

VII. GENERAL PROVISIONS

A. Nothing in this Agreement shall be deemed:

1. To preclude the Tribes or their members, or the United States on its own behalf or on behalf of the Tribe or tribal members, from seeking additional water rights by appropriation in accordance with and pursuant to state law or from acquiring existing state law water rights by purchase, relinquishment, or other operation of law.

2. To limit in any way the rights of the parties or any other person to litigate any issues or questions not resolved by this agreement.

3. To authorize the taking of a water right which is vested under State or Federal law other than as prescribed by Section C of this Article.

4. To alter the effect of any subordination agreement pertaining to relative priorities of water rights previously entered into between or among the United States and/or either Tribe and any other water user.

B. The parties expressly reserve all rights not granted, recognized, or relinquished in this Agreement.

C. Whenever a reserved water right is recognized

herein for use on a parcel of tribal land that is already irrigated under an existing state decreed right owned by the Tribe, individual tribal members, or by the United States for the benefit of the Tribe or individual tribal members, the state decreed right shall be deemed relinquished unless otherwise expressly agreed.

D. The agreement contained herein has been arrived at in the process of good faith negotiations for the purpose of resolving legal disputes, including pending litigation, and all parties agree that no offers and/or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal proceeding other than one for approval or interpretation of this Agreement pursuant to or following the entry of a Final Consent Decree.

E. The law of the State relating to abandonment shall not apply to any of the project or non-project reserved water rights recognized in this Agreement, even if used or temporarily disposed of by the Tribes outside the boundaries of their reservations, nor shall those reserved water rights be forfeited or lost under state law by nonuse.

F. The Secretary agrees not to request assignment of the Dolores Water Conservancy District's water rights pursuant to article V(c) of Contract 7-07-40-W0470, dated September 23, 1977, as amended February 25, 1986, unless the District should

undertake some action that would jeopardize the project or the government's right of repayment.

G. To the extent permitted by existing law, the United States Bureau of Reclamation shall give preference to the Tribes to design and/or construct Dolores or Animas-La Plata Project facilities, so long as the implementation of such preference does not detrimentally affect the project construction schedule.

H. This Agreement may only be modified with the joint consent of the parties.

I. This Agreement may be executed in any number of counterparts, all of which together shall constitute one original Agreement.

J. Any entitlement to water of any individual member of the Tribes shall be satisfied from the water rights confirmed in this Agreement.

K. Nothing in this Agreement shall commit or obligate the United States to expend funds which have not been appropriated and budgeted.

L. Nothing in this Agreement shall commit or obligate the State to expend funds which have not been appropriated and budgeted.

This Agreement is effective this _____ day of December, 1986.

COLORADO UTE INDIAN WATER RIGHTS


FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10th day of December, 1986

STATE OF COLORADO

By



RICHARD D. LAMM, Governor

By



DUANE WOODARD, Attorney General

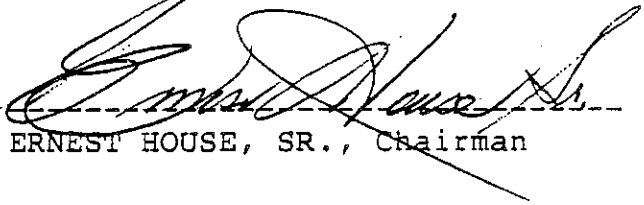
COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10 day of December, 1986

UTE MOUNTAIN UTE INDIAN TRIBE

By


ERNEST HOUSE, SR., Chairman

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10th day of December, 1986

SOUTHERN UTE INDIAN TRIBE

By *Chris A. Baker*
CHRIS A. BAKER, Chairman

By *Clement J. Frost*
CLEMENT J. FROST, Vice-Chairman

By *Leonard C. Burch*
LEONARD C. BURCH, Council Member

By *Orian T. Box*
ORIAN BOX, Council Member

By *Vida B. Peabody*
VIDA B. PEABODY, Council Member

By *Guy Binnecoose, Jr.*
GUY BINNECOOSE, JR., Council Member

By *Lillian I. Seibel*
LILLIAN I. SEIBEL, Council Member

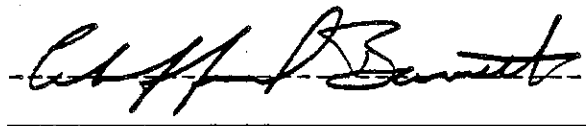
COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10 day of December, 1986

UNITED STATES DEPARTMENT OF THE INTERIOR

By



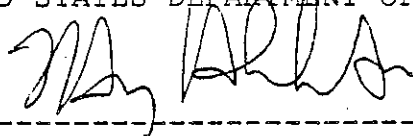
COLORADO UTE INDIAN WATER RIGHTS

FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10th day of December, 1986

UNITED STATES DEPARTMENT OF JUSTICE



By

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10 day of December, 1986

ANIMAS-LA PLATA WATER CONSERVANCY
DISTRICT

By John E. Murphy
JOHN MURPHY, President

Attest: (Seal)

By Edward T. Searle
EDWARD T. SEARLE, Secretary

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10th day of December, 1986

DOLORS WATER CONSERVANCY DISTRICT

By Bruce C. McAfee
BRUCE C. McAFEE, President

Attest: (Seal)

By David D. Herrick
DAVID D. HERRICK, Secretary

COLORADO UTE INDIAN WATER RIGHTS

FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 18th day of December, 1986

FLORIDA WATER CONSERVANCY DISTRICT

By Lloyd N. Hess
LOYD N. HESS, President

Attest: (Seal)

By Terry Palmer
TERRY PALMER, Secretary

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10th day of December, 1986

MANCOS WATER CONSERVANCY DISTRICT

By *Thomas K. Colbert*
THOMAS K. COLBERT, President

Attest: (Seal)

By *Roland K. Anderson*
Secretary

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 10th day of December, 1986

SOUTHWESTERN WATER CONSERVATION DISTRICT

By Frederick V. Kroeger
FREDERICK V. KROEGER, President

Attest: (Seal)

By Edward T. Searle
EDWARD T. SEARLE, Secretary - Acting

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 3rd day of February, 1987

CITY OF DURANGO

By Leonel B. Silva
LEONEL SILVA, Mayor

Attest: (Seal)




By Pauline M. Redman
PAULINE REDMAN, City Clerk

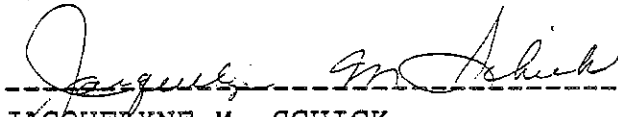
COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 9th day of January, 1987

TOWN OF PAGOSA SPRINGS

By 
ROSS ARAGON, Mayor

By 
JACQUELYNE M. SCHICK
Town Clerk

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 18th day of December, 1986

FLORIDA FARMERS DITCH COMPANY

By James W. Cole
JAMES COLE, President

Attest: (Seal)

By Hazel Brown
HAZEL BROWN, Secretary

COLORADO UTE INDIAN WATER RIGHTS
FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this 18th day of December, 1986

FLORIDA CANAL COMPANY

By Richard C Ballantine
RICHARD BALLANTINE, President

Attest: (Seal)

By T. G. Eggleston
T. G. EGGLESTON, Secretary

COLORADO UTE INDIAN WATER RIGHTS


FINAL SETTLEMENT AGREEMENT

Signature Page

Dated this ^{10th}~~13th~~ day of ~~November~~^{DECEMBER}, 1986

FAIRFIELD COMMUNITIES, INC.


By



TERRY L. FLORA,
Senior Vice President

Attest: (Seal)

By



EDDIE RUTH EWING,
Secretary

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ce shall report to the

PUBLIC LAW 100-585 [H.R. 2642]; November 3, 1988

**COLORADO UTE INDIAN WATER RIGHTS
SETTLEMENT ACT OF 1988**

An Act to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Colorado Ute
Indian Water
Rights
Settlement Act
of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado Ute Indian Water Rights Settlement Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Federal reserved water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe are the subject of existing and prospective lawsuits involving the United States, the State of Colorado, and numerous parties in southwestern Colorado.

(2) These lawsuits will prove expensive and time consuming to the Indian and non-Indian communities of southwestern Colorado.

(3) The major parties to the lawsuits and others interested in the settlement of the water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe have worked diligently to settle these claims, resulting in the June 30, 1986, Binding Agreement for Animas-La Plata Project Cost Sharing which was executed in compliance with the cost sharing requirements of chapter IV of Public Law 99-88 (99 Stat. 293), and the December 10, 1986, Colorado Ute Indian Water Rights Final Settlement Agreement.

(4) The Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by resolution of their respective tribal councils, which are the duly recognized governing bodies of each Tribe, have approved the December 10, 1986, Agreement and sought Federal implementation of its terms.

(5) This Act is required to implement portions of the above two agreements.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the Colorado Ute Indian Water Rights Final Settlement Agreement dated December 10, 1986, among the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States, and other participating parties.

(2) The term "Animas-La Plata Project" means the Animas-La Plata Project, Colorado and New Mexico, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage

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Project Act") and the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

(3) The term "Dolores Project" means the Dolores Project, Colorado, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act"), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.), and as further authorized by the Colorado River Basin Salinity Control Act (98 Stat. 2933; 43 U.S.C. 1591).

(4) The term "final consent decree" means the consent decree contemplated to be entered after the date of enactment of this Act in the District Court, Water Division No. 7, State of Colorado, which will implement certain provisions of the Agreement.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The terms "Tribe" and "Tribes" mean the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, or both Tribes, as the context may require.

(7) The term "water year" means a year commencing on October 1 each year and running through the following September 30.

SEC. 4. PROVISION OF WATER TO TRIBES.

(a) **WATER FROM THE ANIMAS-LA PLATA AND DOLORES PROJECTS.**—The Secretary is authorized to supply water to the Tribes from the Animas-La Plata and Dolores Projects in accordance with the Agreement: *Provided*, That nothing in this subsection or in the authorized purposes of the projects may be construed to permit or prohibit the sale, exchange, lease, use, or other disposal of such water by the Tribes. Any such sale, exchange, lease, use, or other disposal of water from these projects shall be governed solely by the other provisions of this Act and the Agreement as modified pursuant to section 11 of this Act.

(b) **APPLICATION OF FEDERAL RECLAMATION LAWS.**—Except as provided in section 5 of this Act, the water supplied to the Tribes from the Animas-La Plata Project and the Dolores Project shall be subject to Federal reclamation laws only to the extent needed to effectuate the terms and conditions contained in Article III, section A, subsections 1 and 2 and Article III, section B of subsection 1 of the Agreement.

SEC. 5. DISPOSAL OF WATER.

(a) **INDIAN INTERCOURSE ACT.**—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree: *Provided*, That nothing in this subsection shall be considered to amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(b) **RESTRICTION ON DISPOSAL OF WATERS INTO LOWER COLORADO RIVER BASIN.**—None of the waters from the Animas-La Plata or Dolores Projects may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin unless water within the Colorado River Basin held by non-Federal, non-Indian holders of that water pursuant to any water rights could be so sold.

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Dolores Project, of April 11, 1956 to as the "Colorado River Basin", and as further Control Act (98

consent decree enactment of this lo. 7, State of provisions of the

of the Interior. Ute Mountain Tribe, or both

commencing on following Septem-

ES PROJECTS.— Tribes from the with the Agree- the authorized or prohibit the water by the er disposal of by the other d pursuant to

Except as pro- ne Tribes from all be subject l to effectuate ction A, sub- tion 1 of the

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R COLORADO La Plata or or otherwise nless water non-Indian d be so sold,

exchanged, leased, used, or otherwise disposed of under State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact.

(c) USE OF WATER RIGHTS.—(1) The use of the rights referred to in subsection (a) within the State of Colorado shall be governed solely as provided in the Agreement as modified pursuant to section 11 of this Act and this subsection. The Agreement is hereby modified to provide that a Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Agreement and final consent decree off its reservation. If either the Southern Ute Indian Tribe or the Ute Mountain Ute Indian Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a Colorado State water right, but be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(2) The characterizations in the Agreement of any water rights which may be used off the reservation of the respective Tribe as either "project reserved water right" or "nonproject reserved water right" are hereby expressly disapproved and any claim to water rights so characterized shall be extinguished when the final consent decree is entered.

(d) RULES OF CONSTRUCTION.—Nothing in this Act or in the Agree- ment shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservations;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any water held pursuant to a Colorado State water right, or of any Colorado State water right, outside the State of Colorado; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Colorado.

SEC. 6. REPAYMENT OF PROJECT COSTS.

(a) MUNICIPAL AND INDUSTRIAL WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs allocable to each Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects until water is first used either by the Tribe or pursuant to a water use contract with the Tribe. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, repayment of that increment's pro rata share of such allocable construction costs shall commence by the Tribe and the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

(b) AGRICULTURAL IRRIGATION WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs

Contracts.

Contracts.

within the capability of the land to repay, which are allocable to each Tribe's agricultural irrigation water allocation from the Animas-La Plata and Dolores Projects in accordance with the Act of July 1, 1932 (25 U.S.C. 386a; commonly referred to as the "Leavitt Act"), and section 4 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620c; commonly referred to as the "Colorado River Storage Project Act"). Such allocated construction costs which are beyond the capability of the land to repay shall be repaid as provided in subsection (g) of this section. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's agricultural irrigation allocation from the Animas-La Plata Project, which costs shall not be reimbursable by the Tribe.

Agriculture and agricultural commodities.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs. During any period in which water is used by a tribal lessee on land owned by non-Indians, the Tribe shall bear that increment's pro rata share of the allocated agricultural irrigation construction costs within the capability of the land to repay as established in subsection (b)(1).

(c) ANNUAL COSTS WITH RESPECT TO RIDGES BASIN PUMPING PLANT.—(1) The Secretary shall bear any increased annual operation, maintenance, and replacement costs to Animas-La Plata Project water users occasioned by a decision of either Tribe not to take delivery of its Animas-La Plata Project water allocations from Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal pursuant to Article III, section A, subsection 2.i and Article III, section B, subsection 1.i of the Agreement until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe. Such costs shall not be reimbursable by the Tribe.

(2) As an increment of its water from the Animas-La Plata Project is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of such increased annual operation, maintenance, and replacement costs, if any.

(d) SECRETARIAL DEFERRAL.—The Secretary may further defer all or a part of the tribal construction cost obligations and bear all or a part of the tribal operation, maintenance, and replacement obligations described in this section in the event a Tribe demonstrates that it is unable to satisfy those obligations in whole or in part from the gross revenues which could be generated from a water use contract for the use of its water either from the Dolores or the Animas-La Plata Projects or from the Tribe's own use of such water.

(e) USE OF WATER.—For the purpose of this section, use of water shall be deemed to occur in any water year in which a Tribe actually uses water or during the term of any water use contract. A water use contract pursuant to which the only income to a Tribe is in the nature of a standby charge is deemed not to be a use of water for the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such funds as may be necessary for the Secretary to pay the annual operation, maintenance, and replacement costs as provided in this section.

(g) Costs portion of t ability of t Colorado R Project Act

(h) DEFER the portion have been water for deferred by U.S.C. 386a April 11, 19 Conservanc change.

SEC. 7. TRIBA

(a) ESTAB appropriated the payments t authorized appropriati tion to the ment to the

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(c) TRIBA of an appro invest the with the A ment of In Separate a fund. The principal a in accorda paragraph

(2) Each of its Triba provided f investment finds the p approve su writing an such inves Developme the Tribe

(g) COSTS IN EXCESS OF ABILITY OF THE IRRIGATORS TO REPAY.—The portion of the costs of the Animas-La Plata Project in excess of the ability of the irrigators to repay shall be repaid from the Upper Colorado River Basin Fund pursuant to the Colorado River Storage Project Act and the Colorado River Basin Project Act.

(h) DEFERRAL OF CERTAIN CONSTRUCTION COSTS.—Repayment of the portion of the construction costs of the Florida Project which have been allocated to the 563 acre-feet of agricultural irrigation water for which the Southern Ute Tribe is responsible shall be deferred by the Secretary pursuant to the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564) as provided in section 4(d) of the Act of April 11, 1956 (43 U.S.C. 620c; 70 Stat. 107), and the Florida Water Conservancy District's current repayment obligation shall not change.

SEC. 7. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—There is hereby authorized to be appropriated the total amount of \$49,500,000 for three annual installment payments to the Tribal Development Funds which the Secretary is authorized and directed to establish for each Tribe. Subject to appropriation, and within 60 days of availability of the appropriation to the Secretary, the Secretary shall allocate and make payment to the Tribal Development Funds as follows:

Appropriation authorization.

(1) To the Southern Ute Tribal Development Fund, in the first year, \$7,500,000; in the two succeeding years, \$5,000,000 and \$5,000,000, respectively.

(2) To the Ute Mountain Ute Tribal Development Fund, in the first year, \$12,000,000; in the two succeeding years, \$10,000,000 and \$10,000,000, respectively.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribes shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Funds, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had that amount been placed in the fund as set forth in section 7(a).

(c) TRIBAL DEVELOPMENT.—(1) The Secretary shall, in the absence of an approved tribal investment plan provided for in paragraph (2), invest the moneys in each Tribal Development Fund in accordance with the Act entitled "An Act to authorize the deposit and investment of Indian funds" approved June 24, 1938 (25 U.S.C. 162a). Separate accounts shall be maintained for each Tribe's development fund. The Secretary shall disburse, at the request of a Tribe, the principal and income in its development fund, or any part thereof, in accordance with an economic development plan approved under paragraph (3).

Securities.

(2) Each Tribe may submit a tribal investment plan for all or part of its Tribal Development Fund as an alternative to the investment provided for in paragraph (1). The Secretary shall approve such investment plan within 60 days of its submission if the Secretary finds the plan to be reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Development Fund shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan. The

Secretary may take such steps as he deems necessary to monitor compliance with the approved investment plan. The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds. The principal and income from tribal investments under an approved investment plan shall be subject to the provisions of this section and shall be expended in accordance with an economic development plan approved under paragraph (3).

(3) Each Tribe shall submit an economic development plan for all or any portion of its Tribal Development Fund to the Secretary. The Secretary shall approve such plan within 60 days of its submission if the Secretary finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, the Secretary shall, at the time of decision, set forth in writing and with particularity the reasons for such disapproval. Each Tribe may alter the economic development plan, subject to the approval of the Secretary as set forth in this subsection. The Secretary shall not be directly or indirectly liable for any claim or cause of action arising from the approval of an economic development plan or from the use and expenditure by the Tribe of the principal of the funds and income accruing to the funds, or any portion thereof, following the approval by the Secretary of an economic development plan.

(d) **PER CAPITA DISTRIBUTIONS.**—Under no circumstances shall any part of the principal of the funds, or of the income accruing to such funds, or the revenue from any water use contract, be distributed to any member of either Tribe on a per capita basis.

(e) **LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.**—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because subsection (c) is not satisfied or implemented.

SEC. 8. WAIVER OF CLAIMS.

(a) **GENERAL AUTHORITY.**—The Tribes are authorized to waive and release claims concerning or related to water rights as described in the Agreement.

(b) **CONDITION ON PERFORMANCE BY SECRETARY.**—Performance by the Secretary of his obligations under this Act and payment of the moneys authorized to be paid to the Tribes by this Act shall be required only when the Tribes execute a waiver and release as provided in the Agreement.

SEC. 9. ADMINISTRATION.

In exercising his authority to administer water rights on the Ute Mountain Ute and Southern Ute Indian Reservations, the Secretary, on behalf of the United States, shall comply with the administrative procedures governing the water rights confirmed in the Agreement and the Final Consent Decree to the extent provided in Article IV of the Agreement.

SEC. 10. INDIAN SELF-DETERMINATION ACT.

(a) **IN GENERAL.**—The design and construction functions of the Bureau of Reclamation with respect to the Dolores and Animas-La Plata Projects shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25

U.S.C. 450 performed l

(b) APPLIC this section the Dolores

SEC. 11. MOD

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SEC. 12. IND

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SEC. 13. EFF

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U.S.C. 450 et seq.) to the same extent as if such functions were performed by the Bureau of Indian Affairs.

(b) APPLICATION.—This section shall not apply if the application of this section would detrimentally affect the construction schedules of the Dolores and Animas-La Plata Projects.

SEC. 11. MODIFICATION OF AGREEMENT; RULE OF CONSTRUCTION.

(a) MODIFICATION.—The Agreement shall be deemed to have been modified to conform to this Act.

(b) RULE OF CONSTRUCTION.—The Agreement shall be construed in a manner consistent with this Act. This Act is intended solely to permit settlement of existing and prospective litigation among the signatory parties to the Agreement. This Act is the result of a voluntary compromise agreement between the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the State of Colorado, local water districts and municipalities, and the United States. Accordingly, no provision of this Act, the Agreement, or the final consent decree shall be construed as altering or affecting the determination of any questions relating to the reserved water rights belonging to other Indian tribes.

SEC. 12. INDIVIDUAL MEMBERS OF TRIBES.

Any entitlement to reserved water of any individual member of either Tribe shall be satisfied from the water secured to that member's Tribe.

SEC. 13. EFFECTIVE DATE.

(a) Sections 4(b), 5, and 6 of this Act shall take effect on the date on which the final consent decree contemplated by the Agreement is entered by the District Court, Water Division No. 7, State of Colorado. Any moneys appropriated under section 7 of this Act shall be placed into the Ute Mountain Ute and Southern Ute Tribal Development Funds in the Treasury of the United States together with other parties' contributions to the Tribal Development Funds, but shall not be available for disbursement pursuant to section 7 until such time as the final consent decree is entered. If the final consent decree is not entered by December 31, 1991, the moneys so deposited shall be returned, together with a ratable share of accrued interest, to the respective contributors and the Ute Mountain Ute and Southern Ute Tribal Development Funds shall be terminated and the Agreement may be voided by any party to the Agreement. Upon such termination, the amount contributed thereto by the United States shall be deposited in the general fund of the Treasury.

(b) No provision of this Act shall be of any force or effect if the final consent decree is not executed and approved by the court.

SEC. 14. VOIDING OF AGREEMENT.

The United States shall not exercise its right to void the Agreement pursuant to Article VI, section C, subsection 2 thereof.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 2642 (S. 1415):

HOUSE REPORTS: No. 100-932 (Comm. on Interior and Insular Affairs).

SENATE REPORTS: No. 100-555 accompanying S. 1415 (Select Comm. on Indian Affairs and Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Oct. 3, considered and passed House.

Oct. 14, considered and passed Senate.

W-1603-76J
UTE MOUNTAIN UTE INDIAN TRIBE
EXISTING USE INVENTORY SHEET

WD NAME/ID#	DRAINAGE	SOURCE	Q 10	Q 40	Q 160	SEC	TWNSHIP	RNG	PRIOR DATE	AMOUNT ALLOWED	USE
** RESERVOIRS											
33 R-1809	LA PLATA RIVER		SE	SE	SE	24	33 N	14 W	03/02/1868	3.7500 AF	STOCK
33 R-1813	LA PLATA RIVER		NW	NE	NE	36	33 N	14 W	03/02/1868	2.0000 AF	STOCK
33 R-1814	LA PLATA RIVER		SE	SW	NE	36	33 N	14 W	03/02/1868	0.5000 AF	STOCK
33 R-1815	LA PLATA RIVER		SE	SW	NE	36	33 N	14 W	03/02/1868	2.0000 AF	STOCK
33 R-1816	LA PLATA RIVER		NE	NW	NE	4	32 N	13HW	03/02/1868	2.0000 AF	STOCK
33 R-1817	LA PLATA RIVER		SW	NE	NW	3	32 N	13HW	03/02/1868	1.0000 AF	STOCK
33 R-1818	LA PLATA RIVER		NW	NW	SE	2	32 N	13HW	03/02/1868	1.1000 AF	STOCK
33 R-1819	LA PLATA RIVER		SW	NW	SW	12	32 N	14 W	03/02/1868	5.0000 AF	STOCK
** WELL-Livestock											
33 LW-1803	LA PLATA RIVER		NW	NE	NE	4	32 N	13HW	03/02/1868	5.0000 GPM	STOCK
33 LW-1804	LA PLATA RIVER		SE	NW	SE	10	32 N	13HW	03/02/1868	5.0000 GPM	STOCK

W-1603-76J
SOUTHERN UTE INDIAN TRIBE
EXISTING USE INVENTORY SHEET

EXHIBIT C-9

WD NAME/ID#	DRAINAGE	SOURCE	Q 10	Q 40	Q 160	SEC	TWNSHP	RNG	PRIOR DATE	AMOUNT ALLOWED	USE
** CATCHMENT BASINS											
33 CB-0601	LA PLATA RIVER	McDERMOTT ARROYO	SW	SE	SE	5	32 N	11 W	03/02/1868	0.1400 AF	STOCK
33 CB-0602	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	SE	16	32 N	11 W	03/02/1868	0.1400 AF	STOCK
33 CB-0801	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	NW	24	32 N	11 W	03/02/1868	0.3200 AF	STOCK
** DITCHES(see notes)											
33 D- 302	LA PLATA RIVER	SEEPAGE	NW	NE	NE	8	33 N	12 W	03/02/1868	0.2500 CFS	IRRIGATION
33 D- 402	LA PLATA RIVER	WASTE AND SEEP	NE	NW	NE	19	33 N	12 W	03/02/1868	0.5000 CFS	IRRIGATION
33 RABBIT Dit	LA PLATA RIVER	SPRING GULCH	NE	NE	NE	7	34UN	11 W	03/02/1868	0.7500 CFS	IRRIGATION
33 D- 501	LA PLATA RIVER	WASTE AND SEEP	NE	NE	NE	7	34UN	11 W	03/02/1868	0.5000 CFS	IRRIGATION
33 D- 502	LA PLATA RIVER	WASTE AND SEEP	NW	NW	SE	18	34 N	11 W	03/02/1868	0.3300 CFS	IRRIGATION
33 D- 505	LA PLATA RIVER	SOLDIER DRAW	SW	SW	SW	7	34UN	11 W	03/02/1868	0.2500 CFS	IRRIGATION
** RESERVOIRS											
33 R- 101	CHERRY CREEK	BEAR CANYON	NE	NE	NE	9	34UN	13 W	03/02/1868	1.4400 AF	STOCK
33 R- 102	CHERRY CREEK	BEAR CANYON	SW	SW	SW	9	34UN	13 W	03/02/1868	0.3600 AF	STOCK
33 R- 106	CHERRY CREEK	WILDWATER CANYON	SE	NW	NE	16	34 N	13 W	03/02/1868	0.1800 AF	STOCK
33 R- 107	CHERRY CREEK	WILDWATER CANYON	NW	NW	NW	15	34 N	13 W	03/02/1868	0.7600 AF	STOCK
33 R- 201	LA PLATA RIVER	JOHNNY POND ARROYO	SW	SW	NE	33	33 N	13 W	03/02/1868	1.5200 AF	STOCK
33 R- 301	CHERRY CREEK	WILDWATER CANYON	NE	SW	NE	22	34 N	13 W	03/02/1868	0.4200 AF	STOCK
33 R- 302	CHERRY CREEK	WILDWATER CANYON	SW	NE	NW	23	34 N	13 W	03/02/1868	0.9300 AF	STOCK
33 R- 303	LA PLATA RIVER	HAY GULCH	NE	SW	SE	15	34 N	12 W	03/02/1868	0.1200 AF	STOCK
33 R- 402	LA PLATA RIVER	SILVA DRAW	NW	NE	NE	19	33 N	12 W	03/02/1868	0.1100 AF	STOCK
33 R- 403	LA PLATA RIVER	SILVA DRAW	SE	NW	NE	19	33 N	12 W	03/02/1868	0.5700 AF	STOCK
33 R- 404	LA PLATA RIVER	SILVA DRAW	SE	NW	NE	19	33 N	12 W	03/02/1868	0.1300 AF	STOCK
33 R- 405	LA PLATA RIVER	SILVA DRAW	NE	SW	NE	19	33 N	12 W	03/02/1868	0.1400 AF	STOCK
33 R- 406	LA PLATA RIVER	SILVA DRAW	SW	SW	NE	19	33 N	12 W	03/02/1868	0.2700 AF	STOCK
33 R- 407	LA PLATA RIVER	JOHNNY POND ARROYO	SW	NE	SE	26	33 N	13 W	03/02/1868	0.1200 AF	STOCK
33 R- 408	LA PLATA RIVER	JOHNNY POND ARROYO	NW	SW	NE	34	33 N	13 W	03/02/1868	0.4300 AF	STOCK
33 R- 409	LA PLATA RIVER	JOHNNY POND ARROYO	NW	SW	SE	34	33 N	13 W	03/02/1868	0.2500 AF	STOCK
33 R- 410	LA PLATA RIVER	JOHNNY POND ARROYO	NE	NE	SW	35	33 N	13 W	03/02/1868	1.1200 AF	STOCK
33 R- 411	LA PLATA RIVER	JOHNNY POND ARROYO		L	5	4	32 N	13 W	03/02/1868	0.6800 AF	STOCK
33 R- 412	LA PLATA RIVER	JOHNNY POND ARROYO		L	9	4	32 N	13 W	03/02/1868	0.2900 AF	STOCK
33 R- 413	LA PLATA RIVER	UNNAMED		L	3	3	32 N	13 W	03/02/1868	0.7400 AF	STOCK
33 R- 414	LA PLATA RIVER	UNNAMED		L	11	3	32 N	13 W	03/02/1868	0.2100 AF	STOCK
33 R- 415	LA PLATA RIVER	UNNAMED		L	11	3	32 N	13 W	03/02/1868	0.3600 AF	STOCK
33 R- 417	LA PLATA RIVER	UNNAMED		L	16	2	32 N	13 W	03/02/1868	0.4400 AF	STOCK
33 R- 418	LA PLATA RIVER	UNNAMED		L	22	2	32 N	13 W	03/02/1868	3.6500 AF	STOCK
33 R- 419	LA PLATA RIVER	UNNAMED		L	29	2	32 N	13 W	03/02/1868	0.4000 AF	STOCK
33 R- 421	LA PLATA RIVER	UNNAMED	SW	NW	SW	2	32 N	13 W	03/02/1868	0.7000 AF	STOCK
33 R- 422	LA PLATA RIVER	UNNAMED		L	12	1	32 N	13 W	03/02/1868	0.0600 AF	STOCK
33 R- 423	LA PLATA RIVER	UNNAMED		L	36	1	32 N	13 W	03/02/1868	0.6400 AF	STOCK
33 R- 424	LA PLATA RIVER	UNNAMED		L	42	1	32 N	13 W	03/02/1868	16.9000 AF	STOCK
33 R- 425	LA PLATA RIVER	UNNAMED		L	4	10	32 N	13 W	03/02/1868	0.0800 AF	STOCK
33 R- 426	LA PLATA RIVER	UNNAMED	NW	NE	NW	12	32 N	13 W	03/02/1868	9.6000 AF	STOCK
33 R- 427	LA PLATA RIVER	CINDER GULCH	NW	SW	SW	2	32 N	12 W	03/02/1868	0.1700 AF	STOCK
33 R- 428	LA PLATA RIVER	CINDER GULCH	SW	NE	SW	3	32 N	12 W	03/02/1868	0.6500 AF	STOCK
33 R- 429	LA PLATA RIVER	CINDER GULCH	NE	SW	SW	3	32 N	12 W	03/02/1868	0.8400 AF	STOCK
33 R- 430	LA PLATA RIVER	CINDER GULCH	SW	SW	NE	10	32 N	12 W	03/02/1868	3.9400 AF	STOCK
33 R- 504	LA PLATA RIVER	UNNAMED	SW	SW	SW	13	34 N	11 W	03/02/1868	2.0000 AF	STOCK

W-1603-76J
SOUTHERN UTE INDIAN TRIBE
EXISTING USE INVENTORY SHEET

EXHIBIT: 9

WD NAME/ID#	DRAINAGE	SOURCE	Q	Q	Q	SEC	TWN	SHP	RNG	PRIOR	DATE	AMOUNT	ALLOWED	USE
			10	40	160									
33 R- 505	LA PLATA RIVER	UNNAMED	SE	NE	NE	23	34	N	12	W	03/02/1868	0.4600	AF	STOCK
33 R- 506	LA PLATA RIVER	FORTY FOUR CANYON	SW	SW	SW	25	34	N	11	W	03/02/1868	0.2300	AF	STOCK
33 R- 507	LA PLATA RIVER	SPRING GULCH	NW	NE	SE	34	34	N	11	W	03/02/1868	0.7200	AF	STOCK
33 R- 508	LA PLATA RIVER	FORTY FOUR CANYON	SW	NE	NE	35	34	N	11	W	03/02/1868	0.0400	AF	STOCK
33 R- 509	LA PLATA RIVER	FORTY FOUR CANYON	SW	SE	NE	35	34	N	11	W	03/02/1868	0.0400	AF	STOCK
33 R- 511	LA PLATA RIVER	SPRING GULCH	NE	SW	SE	4	33	N	11	W	03/02/1868	3.6000	AF	STOCK
33 R- 512	LA PLATA RIVER	FOURTY FOUR CANYON	NE	SW	NW	2	33	N	11	W	03/02/1868	0.5000	AF	STOCK
33 R- 601	LA PLATA RIVER	McDERMOTT ARROYO	SW	NE	NW	9	33	N	11	W	03/02/1868	0.4300	AF	STOCK
33 R- 602	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	NE	10	33	N	11	W	03/02/1868	0.8000	AF	STOCK
33 R- 603	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	NW	17	33	N	11	W	03/02/1868	20.0000	AF	STOCK
33 R- 604	LA PLATA RIVER	McDERMOTT ARROYO	NW	SE	NE	16	33	N	11	W	03/02/1868	5.5300	AF	STOCK
33 R- 605	LA PLATA RIVER	McDERMOTT ARROYO	SE	SE	SE	10	33	N	11	W	03/02/1868	0.9300	AF	STOCK
33 R- 606	LA PLATA RIVER	McDERMOTT ARROYO	NW	NW	SW	13	33	N	11	W	03/02/1868	0.0900	AF	STOCK
33 R- 607	LA PLATA RIVER	McDERMOTT ARROYO	SW	SW	NW	21	33	N	11	W	03/02/1868	5.8900	AF	STOCK
33 R- 608	LA PLATA RIVER	McDERMOTT ARROYO	SW	NW	NE	22	33	N	11	W	03/02/1868	1.3400	AF	STOCK
33 R- 609	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	SE	30	33	N	11	W	03/02/1868	1.0600	AF	STOCK
33 R- 610	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	SE	28	33	N	11	W	03/02/1868	0.3400	AF	STOCK
33 R- 611	LA PLATA RIVER	McDERMOTT ARROYO	NW	SE	SE	28	33	N	11	W	03/02/1868	0.1400	AF	STOCK
33 R- 612	LA PLATA RIVER	McDERMOTT ARROYO	SW	SW	SW	26	33	N	12	W	03/02/1868	3.5900	AF	STOCK
33 R- 613	LA PLATA RIVER	McDERMOTT ARROYO	NW	SE	SE	35	33	N	11	W	03/02/1868	0.3400	AF	STOCK
33 R- 614	LA PLATA RIVER	McDERMOTT ARROYO	SW	NW	SE	36	33	N	11	W	03/02/1868	1.6000	AF	STOCK
33 R- 615	LA PLATA RIVER	McDERMOTT ARROYO	NE	SE	SW	31	33	N	12	W	03/02/1868	0.1700	AF	STOCK
33 R- 616	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	SW	33	33	N	11	W	03/02/1868	0.1300	AF	STOCK
33 R- 617	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	SE	35	33	N	11	W	03/02/1868	3.8800	AF	STOCK
33 R- 618	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	NW	1	32	N	12	W	03/02/1868	1.1600	AF	STOCK
33 R- 619	LA PLATA RIVER	McDERMOTT ARROYO	SW	SE	SE	6	32	N	11	W	03/02/1868	2.2700	AF	STOCK
33 R- 620	LA PLATA RIVER	McDERMOTT ARROYO	SW	NW	NW	5	32	N	11	W	03/02/1868	0.1800	AF	STOCK
33 R- 621	LA PLATA RIVER	McDERMOTT ARROYO	SW	NW	NE	5	32	N	11	W	03/02/1868	1.0900	AF	STOCK
33 R- 622	LA PLATA RIVER	McDERMOTT ARROYO	NW	SW	NE	5	32	N	11	W	03/02/1868	20.0000	AF	STOCK
33 R- 623	LA PLATA RIVER	McDERMOTT ARROYO	SW	SE	NE	4	32	N	11	W	03/02/1868	0.3800	AF	STOCK
33 R- 624	LA PLATA RIVER	McDERMOTT ARROYO	SW	NE	SE	4	32	N	11	W	03/02/1868	3.4300	AF	STOCK
33 R- 625	LA PLATA RIVER	McDERMOTT ARROYO	NW	NE	SW	2	32	N	11	W	03/02/1868	1.8900	AF	STOCK
33 R- 626	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	NE	7	32	N	11	W	03/02/1868	0.6000	AF	STOCK
33 R- 627	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	NW	7	32	N	11	W	03/02/1868	0.8800	AF	STOCK
33 R- 628	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	SW	7	32	N	11	W	03/02/1868	1.1200	AF	STOCK
33 R- 629	LA PLATA RIVER	McDERMOTT ARROYO	SE	SW	SE	7	32	N	11	W	03/02/1868	0.6500	AF	STOCK
33 R- 630	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	NE	9	32	N	11	W	03/02/1868	0.2200	AF	STOCK
33 R- 631	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	SW	9	32	N	11	W	03/02/1868	1.2500	AF	STOCK
33 R- 632	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	NE	10	32	N	11	W	03/02/1868	0.1000	AF	STOCK
33 R- 633	LA PLATA RIVER	McDERMOTT ARROYO	SW	NW	NW	11	32	N	11	W	03/02/1868	1.1800	AF	STOCK
33 R- 634	LA PLATA RIVER	McDERMOTT ARROYO	NW	SE	NE	11	32	N	11	W	03/02/1868	0.6800	AF	STOCK
33 R- 635	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	SE	13	32	N	12	W	03/02/1868	0.4000	AF	STOCK
33 R- 636	LA PLATA RIVER	McDERMOTT ARROYO	SE	SW	NE	18	32	N	11	W	03/02/1868	2.9300	AF	STOCK
33 R- 637	LA PLATA RIVER	McDERMOTT ARROYO	NW	SE	NE	17	32	N	11	W	03/02/1868	0.1000	AF	STOCK
33 R- 638	LA PLATA RIVER	McDERMOTT ARROYO	NE	SE	SW	17	32	N	11	W	03/02/1868	4.4200	AF	STOCK
33 R- 639	LA PLATA RIVER	McDERMOTT ARROYO	NW	NW	SW	16	32	N	11	W	03/02/1868	0.3000	AF	STOCK
33 R- 640	LA PLATA RIVER	McDERMOTT ARROYO	SE	SW	SE	16	32	N	11	W	03/02/1868	0.7200	AF	STOCK
33 R- 641	LA PLATA RIVER	McDERMOTT ARROYO	SE	SW	SE	16	32	N	11	W	03/02/1868	1.0100	AF	STOCK
33 R- 642	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	NE	15	32	N	11	W	03/02/1868	1.0300	AF	STOCK

W-1603-76J
 SOUTHERN UTE INDIAN TRIBE
 EXISTING USE INVENTORY SHEET

WD NAME/ID#	DRAINAGE	SOURCE	Q	Q	Q	SEC	TWN	SH	RNG	PRIOR	DATE	AMOUNT	ALLOWED	USE
			10	40	160									
33 R- 643	LA PLATA RIVER	McDERMOTT ARROYO	SW	NE	NE	15	32	N	11	W	03/02/1868	0.9700	AF	STOCK
33 R- 644	LA PLATA RIVER	McDERMOTT ARROYO	NE	NW	NE	14	32	N	11	W	03/02/1868	3.9800	AF	STOCK
33 R- 646	LA PLATA RIVER	McDERMOTT ARROYO	NW	SE	NW	21	32	N	11	W	03/02/1868	1.9500	AF	STOCK
33 R- 647	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	NE	21	32	N	11	W	03/02/1868	0.7700	AF	STOCK
33 R- 648	LA PLATA RIVER	McDERMOTT ARROYO	SW	SW	NW	13	33	N	11	W	03/02/1868	1.8000	AF	STOCK
33 R- 701	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	SW	25	34	N	11	W	03/02/1868	0.1200	AF	STOCK
33 R- 704	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	NW	36	34	N	11	W	03/02/1868	0.0200	AF	STOCK
33 R- 801	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	NW	13	33	N	11	W	03/02/1868	9.0200	AF	STOCK
33 R- 804	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	SW	24	33	N	11	W	03/02/1868	1.3300	AF	STOCK
33 R- 805	LA PLATA RIVER	McDERMOTT ARROYO	SW	NE	SW	24	33	N	11	W	03/02/1868	2.0900	AF	STOCK
33 R- 810	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	SE	30	33	N	10	W	03/02/1868	0.7300	AF	STOCK
33 R- 811	LA PLATA RIVER	McDERMOTT ARROYO	NW	SW	SE	30	33	N	10	W	03/02/1868	0.3700	AF	STOCK
33 R- 816	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	NW	1	32	N	11	W	03/02/1868	0.1100	AF	STOCK
33 R- 817	LA PLATA RIVER	McDERMOTT ARROYO	SE	SW	NW	1	32	N	11	W	03/02/1868	0.1000	AF	STOCK
33 R- 820	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	NW	13	32	N	11	W	03/02/1868	0.6200	AF	STOCK
33 R- 821	LA PLATA RIVER	McDERMOTT ARROYO	NE	NE	SW	18	32	N	10	W	03/02/1868	0.3400	AF	STOCK
** SPRINGS														
33 SP- 401	LA PLATA RIVER	UNNAMED	NW	SE	NE	30	33	N	12	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 402	LA PLATA RIVER	UNNAMED	SE	SE	NE	30	33	N	12	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 501	LA PLATA RIVER	FORTY-FOUR CANYON	SW	NE	SW	35	34	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 502	LA PLATA RIVER	McDERMOTT ARROYO	NE	SE	SE	2	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 601	LA PLATA RIVER	McDERMOTT ARROYO	NW	NE	SW	17	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 602	LA PLATA RIVER	McDERMOTT ARROYO	NW	NE	SE	30	33	N	11	W	03/02/1868	6.0000	GPM	STOCK
33 SP- 603	LA PLATA RIVER	McDERMOTT ARROYO	SE	NW	NW	29	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 604	LA PLATA RIVER	McDERMOTT ARROYO	SW	NE	NW	35	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 605	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	NW	35	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 606	LA PLATA RIVER	McDERMOTT ARROYO	SE	NE	SE	1	32	N	12	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 607	LA PLATA RIVER	McDERMOTT ARROYO	SW	NW	SE	10	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 608	LA PLATA RIVER	LA PLATA RIVER	NW	SW	NW	16	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 609	LA PLATA RIVER	LA PLATA RIVER	SE	SE	NE	17	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 801	LA PLATA RIVER	McDERMOTT ARROYO	NE	SW	SW	19	33	N	10	W	03/02/1868	5.0000	GPM	STOCK
33 SP- 804	LA PLATA RIVER	McDERMOTT ARROYO	SW	SW	NE	12	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
** WELLS 'DW-' domestic well, 'LW-' livestock well														
33 DW- 401	LA PLATA RIVER	GROUND WATER	NW	SE	NE	10	32	N	13	W	03/02/1868	5.0000	GPM	DOMESTIC
33 DW- 501	LA PLATA RIVER	GROUND WATER	SW	NW	NW	8	34	UN	11	W	03/02/1868	5.0000	GPM	DOMESTIC
33 LW- 601	LA PLATA RIVER	GROUND WATER	SW	SE	SW	24	33	N	12	W	03/02/1868	6.0000	GPM	STOCK
33 LW- 602	LA PLATA RIVER	GROUND WATER	NW	SW	NW	17	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 603	LA PLATA RIVER	GROUND WATER	SE	NE	NE	15	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 604	LA PLATA RIVER	GROUND WATER	NW	NW	NW	14	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 605	LA PLATA RIVER	GROUND WATER	NE	NW	NE	23	32	N	11	W	03/02/1868	8.0000	GPM	STOCK
33 LW- 606	LA PLATA RIVER	GROUND WATER	SW	SW	SE	9	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 607	LA PLATA RIVER	GROUND WATER	SE	NE	NE	15	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 608	LA PLATA RIVER	GROUND WATER	NW	NW	SE	11	32	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 609	LA PLATA RIVER	GROUND WATER	SE	SW	NE	31	33	N	11	W	03/02/1868	5.0000	GPM	STOCK
33 LW- 802	LA PLATA RIVER	GROUND WATER	NW	SE	SW	24	33	N	11	W	03/02/1868	5.0000	GPM	STOCK

W-1603-76J
SOUTHERN UTE INDIAN TRIBE
EXISTING USE INVENTORY SHEET

WD NAME/ID#	DRAINAGE	SOURCE	Q	Q	Q	SEC	TWNSHP	RNG	PRIOR	AMOUNT	USE
			10	40	160				DATE	ALLOWED	

Notes: All ditches (D) and tracts (T) set forth below are located on Exhibit 8, Case No. W-1603-76J.

D-302 serves T-303(2 acres) and T-401(13 acres).

D-402 serves T-402, 30 acres.

Rabbit Ditch(D-506) serves T-504B, 45 acres.

D-501 serves T-501, 30 acres.

D-502 serves T-502, 20 acres.

D-505 serves T-504A, 15 acres.

All tracts are served from excess spring runoff, waste, seeps and return flows as set forth in the Southern Ute Water Use Inventory Maps dated Oct, 1991. The Indian Reserved Right, with a priority of date of 3/02/1868, is subordinated to all water rights senior to 1/1/1976.