




A Tribal Perspective about the Taos Pueblo Water Settlement

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Taos Pueblo: The Place, the People, the Water:

- **Tuah-tah, The Place of the Red Willows, a World Heritage Site/living culture**
- **Taos People -prehistorically and historically, agriculturalists, hunters and gatherers. Settled in Taos Valley.**
- **Lands range from 6500 feet to 13,000 feet in elevation**





Blue Lake-Headwaters of
the Tau-Tah Ba ah Nah-
Rio Pueblo

A decorative graphic at the top of the slide consisting of several overlapping, wavy blue lines that create a sense of movement and depth, resembling water or a stylized horizon.

Water...The Essence... Our Lifeblood

- **Water is a blessing that is part of creation and perpetuation of life itself...our lives...the lives of food crops and the lives of animals and birds, and indeed for all living things.**





Centuries of Disputes over Water

- **Europeans arrived in 1500's & began settlements**
- **Pueblo allowed use of water for humanitarian reasons**
- **Settlers encroached on Pueblo lands and water**
- **Earliest formal water dispute was in 1823-Fair**
- **1893 U.S. Territorial Court Decree not favorable**
- **Local agreement for use of water on a time basis**



Adjudication and Response

- **U.S. filed claim as trustee; filed historic use claim in 1989 and later amended claims**
- **Tribe intervened on own behalf in 1985**
- **Early work by Tribal Council and Governor's Office.**
- **Litigation Case developed.**
- **Value of Claim documented**



Negotiations:

- **Local Parties agreed to negotiate a settlement in 1989;**
- **Litigation on-hold while negotiations are in process;**
- **Council appointed negotiation spokesmen and Tribal Water Task Force;**
- **Negotiations were initially adversarial, complex and difficult;**
- **Elements and principles developed to provide framework for negotiations.**



Negotiations:

- **Technical, Legal and Principals committees established;**
- **Technical studies-BIA/Tribe; Congressional appropriation for deep ground water study;**
- **Plenary sessions and also bilateral negotiations were necessary;**
- **Pueblo was central party; involved in more sessions than other parties;**
- **Mediator assigned.**



Negotiations:

- **United States involved in the negotiations** through the Federal Negotiating Team as Trustee and for its interests.....
- **The State, a prominent party.**
- **Big Motivator: Litigated Outcome**
- **Negotiations from 1989 to 2006.**



Strong Points

- **In Taos Valley since Time Immemorial;**
- **Prehistoric unchallenged use of all land and water in Taos Valley;**
- **Hands-on use of water resources through agriculture. 5,220 Prehistorically Irrigated Acreage and 5,713 Historically Irrigated Acreage;**
- **Senior, aboriginal rights based on prehistoric, and on-going presence;**
- **Own watershed and located at upper end of water systems.**



Difficult Issues

- **Loss of lands due to influx of population**
- **Age-old disputes, Old agreements and Court imposed decrees**
- **Local perceptions/misperceptions**
- **Groundwater issues**
- **Threat of Litigation**
- **Limited surface water supply**
- **Intra-sovereign conflicts**
- **Limited resources for costs**
- **Forbearance**



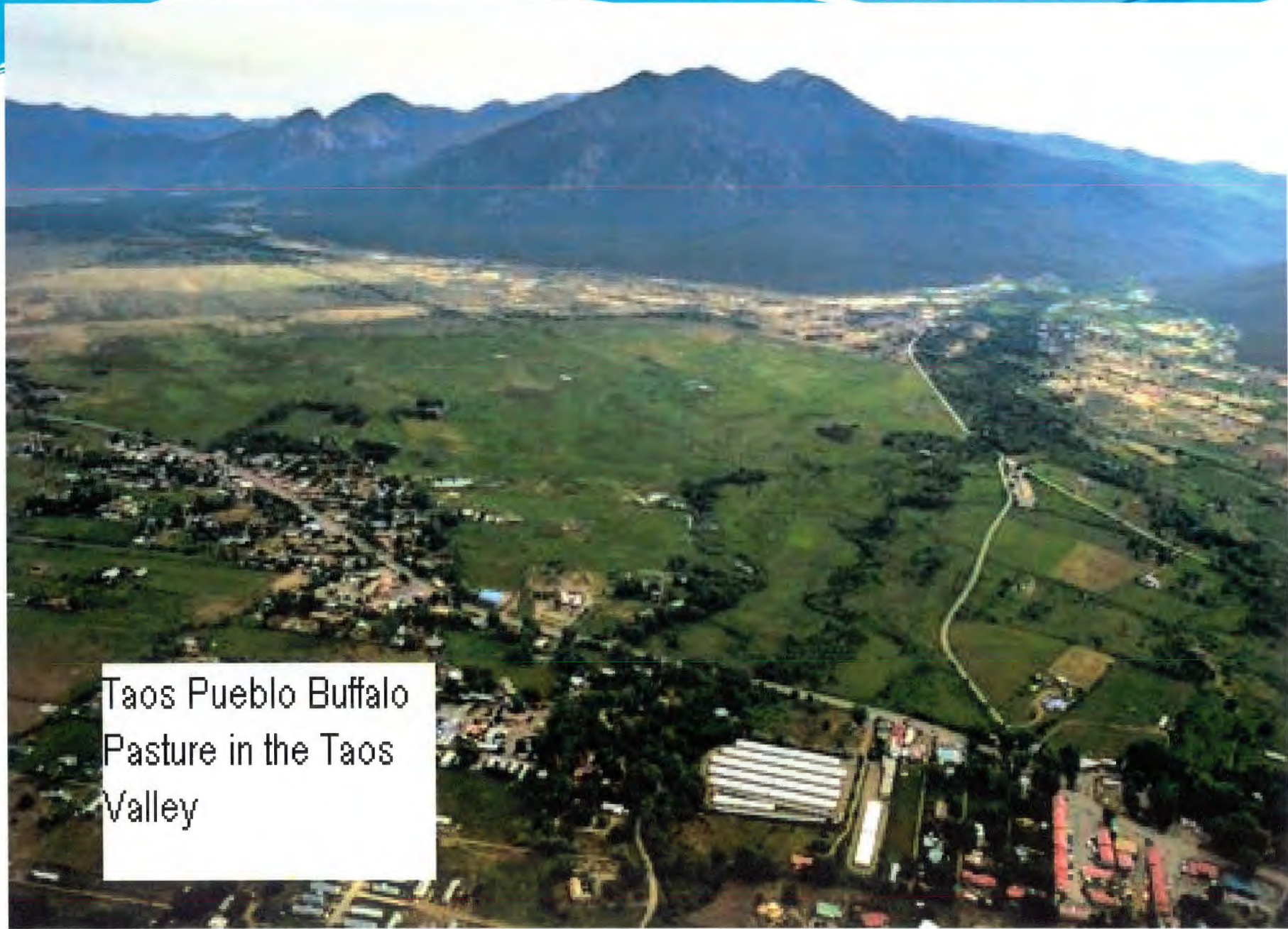
Some key negotiation Goals

- **Priority dates-Senior Aboriginal**
- **Surface water** to initially irrigate about 50% of HIA
- **Groundwater supplies** for current and future needs
- **Special protections** (Buffalo Pasture)
- **Alternative water supplies -SJCP**
- **Water marketing-SJCP**
- **Water development projects-Irrigation, W/Wastewater, MRI**
- **Funding** for water development

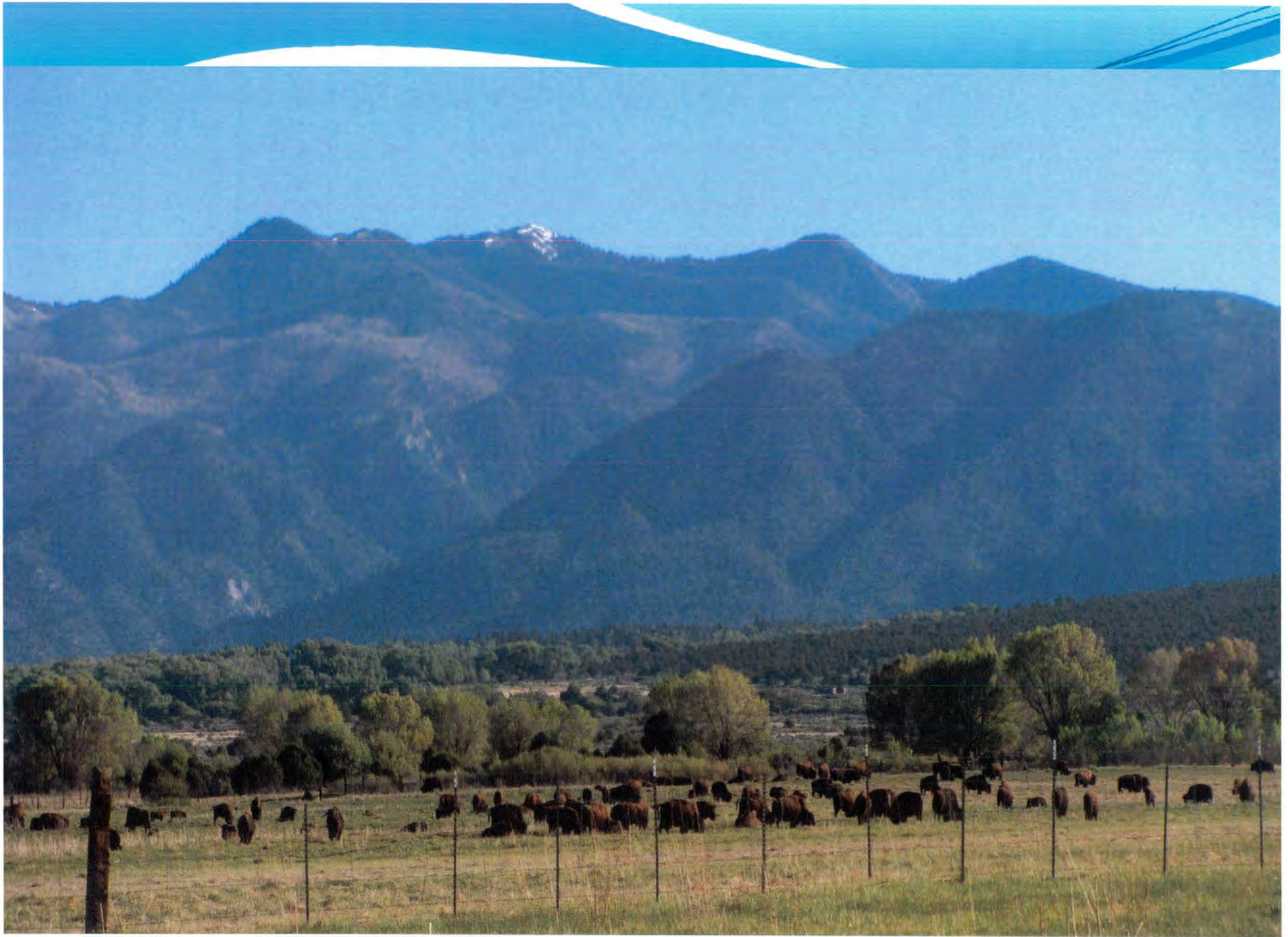



A Core Issue: Protection of Buffalo Pasture Sacred Wetland

- **Buffalo Pasture- a culturally-important wetland;**
- **Effect on Buffalo Pasture from pumping of groundwater by municipal wells;**
- **Goal: Protection of sacred wetland now and in future from deterioration due to groundwater production;**
- **Solutions Negotiated;**
- **Buffalo Pasture Recharge Project-Early Implementation Project**

An aerial photograph of the Taos Pueblo Buffalo Pasture in the Taos Valley. The image shows a vast green field with a winding road or path cutting through it. In the foreground, there are some buildings and a parking lot. The background features a range of mountains under a clear sky.

Taos Pueblo Buffalo
Pasture in the Taos
Valley





Results:

- **Agreement in Principle signed in 2004;**
- **“Draft Settlement Agreement” signed in 2006;**
- **2007 to 2010-Negotiations moved to the congressional and federal phase;**
- **Settlement legislation introduced in 2008 and again in 2009; Hearings held; passage by Congress and signed by President Obama-2010.**



Signing of Draft
Settlement
Agreement May 2006



Currently:

- **2011: Draft Settlement Agreement being conformed to legislation as enacted;**
- **Partial Final Decree and other court documents in process;**
- **Early implementation of necessary projects-pending subject to early funding distribution;**
- **New Settlement Agreement -Signing by parties and Secretary of Interior. 2011??**



How Did the Parties Come Together?

Concerns and Fears:

- **Litigation costs**
- **Litigation time**
- **Litigation outcome**
- **Litigation uncertainties**
- **Uncertainties about water quantity and groundwater production-impacts on Buffalo Pasture**



Negotiations

Benefits:

- **Funding**
- **Known quantity of water**
- **Additional/Alternative water supply-SJCP**
- **Resolution of old issues over water**
- **Desire to end / minimize water disputes**
- **Controlled groundwater pumping**



Reality

- **Limited Funding**
- **Water quantity uncertainties due to forbearance, and drought and climate change uncertainties.**
- **Additional/alternative supply reduced**
- **Continuation of disputes over Settlement implementation**
- **Uncertainties about effects from future groundwater pumping on Buffalo Pasture**



How to Cope with What We Have

- **Stretch Funding; seek alternative-supplemental funding with Settlement funds as match;**
- **Basin Study to be done to have better handle on projection of future water supplies and for enhancement of supplies;**
- **Rural Water Study underway to put groundwater to more efficient and beneficial uses to serve more People.**



How to Cope with What We Have

- **Irrigation Study underway to rehabilitate infrastructure for more efficient use of surface water;**
- **Use Settlement funding to re-acquire rights forbear;**
- **Market SJCP water for economic benefit;**
- **Upgrade Water Code to provide for minimizing disputes.**




How to Cope with What We Have

- **Develop Water Management Plan for more efficient management and administration of water resources to help minimize disputes;**
- **Utilize Settlement Agreement terms to monitor groundwater pumping effects and determine mitigation measures necessary.**



Issues-Uncertainties

- **Water Rights -Acquisition uncertainties due to competition, funding limitations, market, costs.**
- **Early money delay impacting necessary early projects implementation and water acquisition.**
- **U.S.-State dispute over jurisdiction on settlement interpretation and enforcement.**
- **Conditions Precedent-Will they be met in all good faith?**



Structure and Interface with BIA, Federal Teams and consultants:

- **Water Rights Task Force;**
- **Tribal Council approval of all major aspects of agreements;**
- **Governor and War Chief participation at major negotiation meetings;**
- **Two co-spokesmen appointed; Approach is very hands-on.**
- **Negotiation Team includes legal and technical consultants;**

Structure and Interface with BIA, Federal Teams and Consultants

- **BIA technical resources used; limited funding;**
- **Loan obtained to cover costs;**
- **Worked with Federal Negotiating Team within parameters of Federal Indian Water Rights Settlement Guidelines;**
- **Federal Implementation Team assigned to ensure implementation in accordance with Act;**
- **Pueblo Implementation Team;**

Plans and Steps to Protect Rights and Manage Tribal Water in the Future

- **Water Rights Administration Program;**
- **Water Resource Management Plan;**
- **Administer/enforce Water Code;**
- **Permits to control entry and maintenance work;**
- **Monitoring of stream and ditches flows;**
- **Legal protests of actions that may affect or impact tribal water rights;**
- **Groundwater monitoring program to determine fluctuations from seasonal supplies and pumping.**



Plans and Steps to Protect Rights and Manage Tribal Water in the Future

- **Watershed management and protection;**
- **Projection of supplies using technical information;**
- **Monitor Buffalo Pasture conditions;**
- **Increase efficiency of use;**
- **Rehabilitation of irrigation infrastructure;**
- **Annual assessment of water works and irrigation infrastructure;**
- **Drought Plan.**

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The Future...

- **The settlement will avoid litigation costs and promote cooperation;**
- **Finality is noble goal but not everything will be settled;**
- **Water management is important;**
- **Being at headwaters the Pueblo has important land and water resource protection responsibilities that will increase under the settlement;**
- **Comprehensive community planning necessary for future water needs and uses.**



In conclusion

- Not an easy or comfortable process; Forbearing exercise of our full rights and other limitations are difficult; In long-run we hope to re-acquire those rights forbearred and apply them to our tribal lands.
- Settlement funding is limited for what we are giving up and someday will be gone, and water rights quantified will be what future generations will inherit. Will it be enough?
- The time it takes to settle water rights and for implementation is unbelievable and requires extreme patience. Costs are great and will be on-going so real cost is yet to be determined.
- I commend my tribal elders who are deceased who have their breath in the work that was done to get us where we are.

