

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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Robert M. Marshall
CLERK - LAS CRUCES

UNITED STATES OF AMERICA, on its)
own behalf and on behalf of the)
PUEBLOS OF JEMEZ, SANTA ANA and)
ZIA, and the STATE OF NEW MEXICO,)
ex rel., S.E., REYNOLDS, and the)
PUEBLOS OF JEMEZ, SANTA ANA and)
ZIA as Intervenors,)
)
)
)
Plaintiffs,)
)
)
v.)
)
)
TOM ABOUSLEMAN, et al.,)
)
)
Defendants.)

No. CIV 83-1041 SC

AMENDED ORDER ADJUDICATING IRRIGATION ³⁶⁷
WATER REQUIREMENTS

THIS MATTER having come before the Court on the Pueblo of Jemez's Motion to Amend the Order Adjudicating Irrigation Water Requirements, there being no opposition to the Motion, and the Court being otherwise fully advised in the premises, the Court finds the Motion should be, and hereby is, GRANTED.

IT IS HEREBY ORDERED that:

1. Irrigation water requirements for one calendar year are defined as follows:
 - a. **Consumptive Irrigation Requirement (CIR)**, which is the quantity of water, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface. CIR is the measure of the depletion or beneficial consumptive use right.

b. **Farm Delivery Requirement (FDR)**, which is the quantity of water, exclusive of effective precipitation, that is delivered to the farm headgate or is diverted from a source of water which originates on the farm itself (such as a well or spring); and

c. **Project Delivery Requirements (PDR) or Off-Farm Diversion Requirement**, which is the quantity of water, exclusive of precipitation, diverted from an off-farm source to satisfy the FDR. The PDR consists of the FDR plus any off-farm conveyance losses between the source of supply and the farm headgate.

2. Irrigation water requirements in the Jemez River Basin are based on the growing season, effective precipitation, cropping pattern and other factors for the following geographic areas:

a. **Lower Jemez** - the area between the north boundary of the Jemez Pueblo Grant and the confluence of the Jemez River with the Rio Grande, including the ditches of Nestro R. Padilla Irrigation System, San Ysidro, Jemez Pueblo ditches which include the Pueblo Ditch, Pecos Pueblo ditch, West Main Ditch, West Upper ditch and ditches of the Pueblos of Zia and Santa Ana.

b. **Upper Jemez** - the area between the north boundary of the Jemez Pueblo Grant and the La Cueva Ditch area, including the following ditches: Cañon Community, the Pueblo and West Main Ditch from the north boundary of the Jemez Pueblo grant to the Jemez Diversion Dam, Ponderosa Community, Upper West, Upper East, East Lateral, West Lateral, West Side, Jemez Springs, South Upper West and Jemez Rio, A/K/A, Hummingbird;

c. **La Cueva** - the La Cueva ditch area including the La Cueva, George E. Fenton, and Fenton ditches; and

d. **Nacimiento** - the Nacimiento Community Ditch area, including the Domingo Vigil, Nerio Montoya, Francisco Chavez # 6, Gabriel Montoya # 7, Nacimiento, Ballejos # 4, Copper City, and Madrlena Atencio # 2.

3. The irrigation water requirements for each area are:

	<u>CIR</u>	<u>FDR</u>	<u>PDR</u>
a. Lower Jemez	1.73	3.46	4.94
b. Upper Jemez	1.41	2.82	4.03
c. La Cueva	0.83	1.66	2.37
d. Nacimiento	1.14	2.28	3.26

4. Irrigation water requirements in the Jemez River Basin are adjudicated as follows:

a. **Lower Jemez**

i. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 4.94 acre-feet per acre per year diverted by the ditch from the surface source or 3.46 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 1.73 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 4.94 acre-feet per acre per year diverted by the ditch from the surface source of water, or 3.46 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells, or a beneficial consumptive use of 1.73 acre-feet per acre per year, whichever amount is less.

b. Upper Jemez

i. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 4.03 acre-feet per acre per year diverted by the ditch from the surface source of water, or 2.82 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 1.41 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 4.03 acre-feet per acre per year diverted by the ditch from the surface source of water, or 2.82 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells, or a beneficial consumptive use of 1.41 acre-feet per acre per year, whichever is less.

c. La Cueva

i. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 2.37 acre-feet per acre per year diverted by the ditch from the surface source of water, or 1.66 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 0.83 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 2.37 acre-feet per acre per year diverted by the ditch from the surface source of water, or 1.66 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells, or a beneficial consumptive use of 0.83 acre-feet per acre per year, whichever is less.

d. Nacimiento

i. For all water rights involving surface water delivered from a ditch, the

amount of water shall not exceed 3.26 acre-feet per acre per year diverted by the ditch from the surface source of water, or 2.28 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 1.14 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 3.26 acre-feet per acre per year diverted by the ditch from the surface source of water,¹ or 2.28 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells,² or a beneficial consumptive use of 1.14 acre-feet per acre per year, whichever is less.

5. Any diversion, impoundment or use of waters of the Jemez River stream system by any defendant except in accordance with the irrigation water requirements as described in this Order is prohibited.


UNITED STATES DISTRICT JUDGE

Approved: Vickie L. Gabin
SPECIAL MASTER

¹The Nacimiento Community Ditch Association takes water from two basins, the Nacimiento Creek drainage basin, which is within the Rio Puerco drainage basin, and the Jemez River drainage basin. An agreement between the Pueblos of Jemez, Zia and Santa Ana and the Nacimiento Community Ditch Association regarding the use of the Jemez River basin waters within the Rio Puerco drainage basin was filed in this case on June 14, 1990. (Docket No. 2240).

² Such supplemental irrigation wells which may exist and which may be used as points of diversion for this irrigation right were not catalogued or adjudicated in this adjudication.